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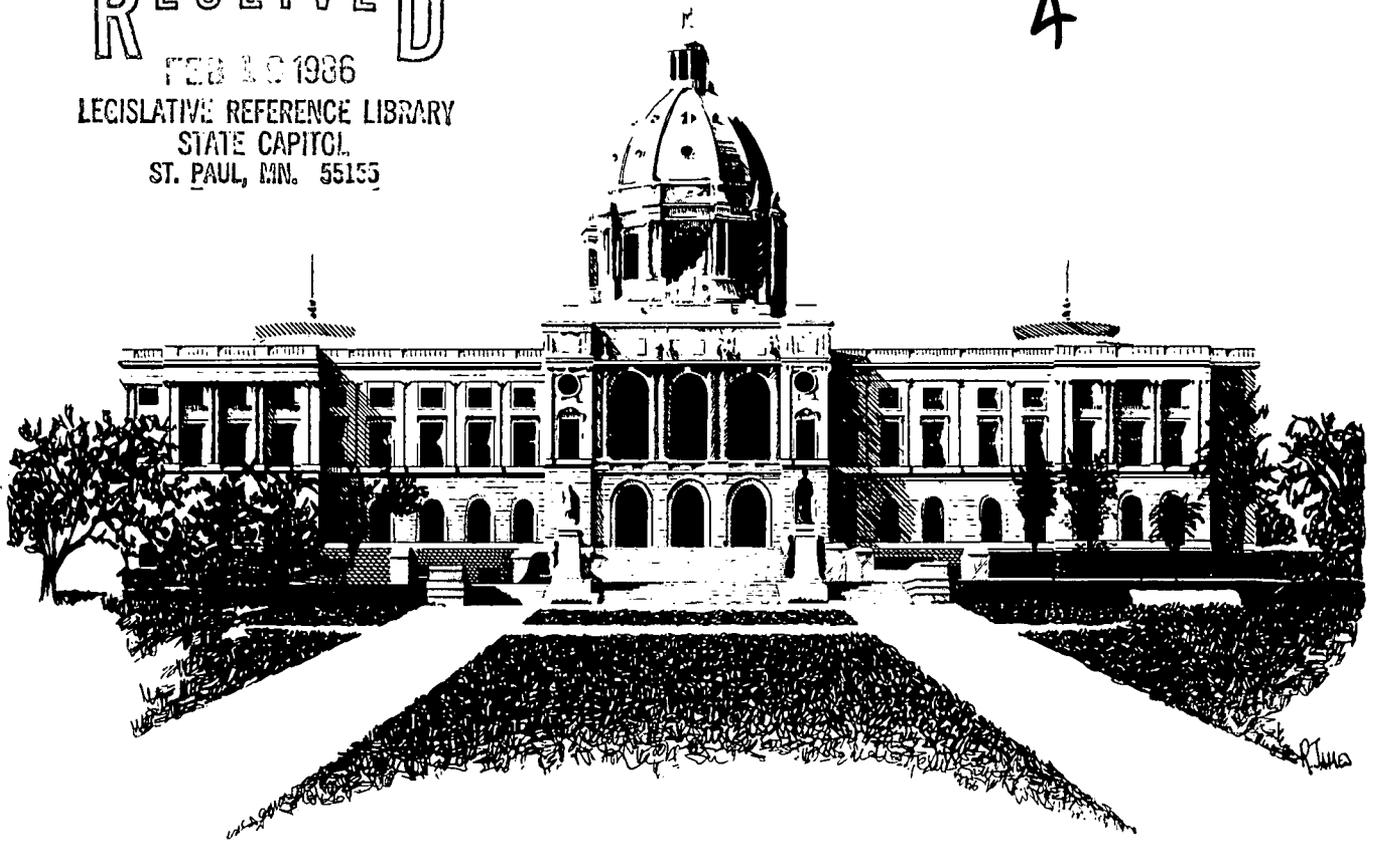
STATE REGISTER

STATE OF MINNESOTA

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VOLUME 10, NUMBER 34

February 17, 1986

Pages 1701-1748



Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
SCHEDULE FOR VOLUME 10			
35	Monday February 10	Friday February 14	Monday February 24
36	Friday February 14	Monday February 24	Monday March 3
37	Monday February 24	Monday March 3	Monday March 10
38	Monday March 3	Monday March 10	Monday March 17

*Deadline extensions may be possible at the editor's discretion; however, none will be made beyond the second Wednesday (12 calendar days) preceding the issue date for rules, proposed rules and executive orders, or beyond the Wednesday (5 calendar days) preceding the issue date for official notices. Requests for deadline extensions should be made only in valid emergency situations.

**Notices of public hearings on proposed rules and notices of intent to adopt rules without a public hearing are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the Office of the State Register, 506 Rice Street, St. Paul, Minnesota 55103, (612) 296-0930.

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The *State Register* is the official publication of the State of Minnesota, containing executive orders of the governor, proposed and adopted rules of state agencies, and official notices to the public. Judicial notice shall be taken of material published in the *State Register*.

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CONTENTS

MINNESOTA RULES AMENDMENTS AND ADDITIONS

Issues 27-34, inclusive 1704

PROPOSED RULES

Health Department

Proposed Group Variance from Compliance with Rules Relating to Health Care Cost Information for Freestanding Outpatient Surgery Centers 1706

Human Services Department

Proposed Rule Relating to Medical Assistance Reimbursement to Day Service Providers 1708

Jobs & Training Department

Proposed Rule Relating to Rehabilitation Services Fees 1709

Public Safety Department

Proposed Rules Relating to Preliminary Screening Breath Test Devices 1711

ADOPTED RULES

Energy & Economic Development Department

Adopted Rules Governing Energy Financial Assistance 1714

Human Services Department

Adopted Rules Relating to Referral of General Assistance Applicants and Recipients to Other Maintenance Benefit Programs 1715

OFFICIAL NOTICES

Animal Health Board

Special Board Meeting 1718

Energy & Economic Development Department

Outside Opinion Sought Regarding Proposed Modification to Rules Governing Minnesota 1718

Human Services Department

Outside Opinion Sought Concerning Amendments to the Rules Governing the Administration of Child Protective Services 1718

Human Services Department

Health Care Programs Division

Meetings on Medicaid Prepaid Demonstration Project 1719

Outside Opinion Sought Concerning Amendments to Inpatient Hospital Reimbursement Under the Medical Assistance and General Assistance Medical Care Programs 1719

Jobs & Training Department

Division of Rehabilitation Services

Outside Opinion Sought Concerning a Proposed Rule Certifying Centers for Independent Living 1720

Pollution Control Agency

Division of Water Quality

Approval of Amendments to the Metropolitan Council's 208 Plan (Part 1) and Recommendation for Certification by the Governor 1720

Permanent List of Priorities Among Releases or Threatened Releases of Hazardous Substances, Pollutants or Contaminants 1721

Public Utilities Commission

Outside Opinion Sought Regarding a Draft of Rules Governing Practice and Procedure for Ex Parte Communications 1727

Draft of Rules Governing Practice and Procedures for Ex Parte Communications 1728

Outside Opinion Sought Regarding a Draft of a Rule Governing Ethical Practices of Regulated Companies 1729

Draft of a Rule Governing Ethical Practices of Regulated Companies 1730

State Retirement System

Board of Directors Regular Meeting 1730

Teachers Retirement Association

Meeting Notice 1730

STATE CONTRACTS

Administration Department

Procurement Division 1731

Corrections Department

Community Services Division

Request for Proposals for Services to Battered Women 1732

Corrections Department

Health Care Unit

Request for Proposals for Registered Dietitian Services 1733

Education Department

Systems Effectiveness Division

Request for Proposals for Minicomputer Financial Accounting and Reporting Information Systems 1733

Energy & Economic Development Department

Financial Deal Making Assistance Sought for Small Cities Businesses 1733

Professional Economic Development Program and Instructor(s) Sought 1734

Natural Resources Department

Request for Proposals for the Planning of Milled Peat Production System 1734

Public Employees Retirement Association

Request for Proposals for Actuarial Consultant Services 1735

SUPREME COURT

Legal Services Advisory Committee

Request for Proposals for Legal Services 1738

Teaching Board

Request for Proposals for Teacher Examination Development and Administration Services 1738

SUPREME COURT CALENDAR

Cases Scheduled to Be Heard During March 1986 1739

SUPREME COURT DECISIONS

Decisions Filed Friday, February 7, 1986 1742

NOTICE

How to Follow State Agency Rulemaking Action in the State Register

State agencies must publish notice of their rulemaking action in the *State Register*. If an agency seeks outside opinion before promulgating new rules or rule amendments, it must publish a **NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION** also.

The PROPOSED RULES section contains:

- Calendar of public hearings on proposed rules.
- Proposed new rules (including notice of hearing and/or notice of intent to adopt rules without a hearing).
- Proposed amendments to rules already in existence in the Minnesota Rules.
- Proposed emergency rules.
- Withdrawal of proposed rules (option; not required).

The ADOPTED RULES section contains:

- Notice of adoption of new rules and rule amendments adopted without change from the previously published proposed rules. (Unchanged adopted rules are not republished in full in the *State Register* unless an agency requests this.)
- Adopted amendments to new rules or rule amendments (adopted changes from the previously published proposed rules).
- Notice of adoption of emergency rules.
- Adopted amendments to emergency rules (changes made since the proposed version was published).
- Extensions of emergency rules beyond their original effective date.

The OFFICIAL NOTICES section includes (but is not limited to):

- Notice of intent to solicit outside opinion before promulgating rules.
- Additional hearings on proposed rules not listed in original proposed rules calendar.

ALL ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES published in the *State Register* and filed with the Secretary of State before April 8, 1985 are published in the *Minnesota Rules 1985*. ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES filed after April 8, 1985 will be included in a supplement scheduled for publication in Spring, 1986. Proposed and adopted EMERGENCY (formerly called TEMPORARY) RULES appear in the *State Register* but are generally not published in the *Minnesota Rules* due to the short-term nature of their legal effectiveness. Those that are long-term may be published.

The *State Register* publishes partial and cumulative listings of rule in the MINNESOTA RULES AMENDMENTS AND ADDITIONS list on the following schedule:

Issues 1-13, inclusive	Issue 39, cumulative for 1-39
Issues 14-25, inclusive	Issues 40-51, inclusive
Issue 26, cumulative for 1-26	Issue 52, cumulative for 1-52
Issues 27-38, inclusive	

The listings are arranged in the same order as the table of contents of the *Minnesota Rules 1985*.

MINNESOTA RULES AMENDMENTS AND ADDITIONS

AGRICULTURE DEPARTMENT

1530.0740; .0820 (proposed) 1643
 1530.0830; .0840; .0850; .0860; .0870; .0880;
 .0890; .0900; .0910; .0920; .0930; .0940; .0950;
 .0960; .1120; .1130; .1140; .1150; .1160; .1170;
 .1180; .1190; .1200; .1210; .1220; .1230; .1240;
 .1250; .1260; .1270; .1280; .1290; .1300; .1310;
 .1320; .1330; .1340 (proposed repealer) 1643

OFFICE OF THE ATTORNEY GENERAL

2000.0200; .0300; .0400; .0500; .0600; .0700;
 .0800; .0900; .1000; .9900; .9905; .9910; .9915;
 .9920; .9925; .9930; .9935; .9940; .9945; .9950;
 .9955; .9960; .9965; .9970; .9975; .9977; .9980;
 .9983; .9985 (proposed repealer) 1457
 2010.0200-.1400; .9900-.9960 (proposed) 1457

OFFICE OF THE ATTORNEY GENERAL

2000.0200; .0300; .0400; .0500; .0600; .0700;
 .0800; .0900; .1000; .9900; .9905; .9910; .9915;
 .9920; .9925; .9930; .9935; .9940; .9945; .9950;
 .9955; .9960; .9965; .9970; .9975; .9977; .9980;
 .9983; .9985 (Errata) 1547
 2010.0200-.1400; .9900-.9960 (Errata) 1547

DEPARTMENT OF COMMERCE

2700.3200 (adopted) 1499
 2742.0100-.0400 [effective 60 days after adoption
 notice] (proposed) 1528

2875.1590 (proposed) 1525

BOARD OF DENTISTRY

3100.0100; .3100; .3200; .6200; .6325; .6350; .9100;
 .9200; .9300; .9500 (adopted) 1613
 3100.0100, s.12,19 (repealed) 1613
 3100.1100-.1400; .1700; .1850; .3300; .3400 (adopted) 1612
 3100.1800; .1900; .4700 (repealed) 1612
 3100.4100-.4400; .4600 (adopted) 1612
 3100.4200; s.3 (repealed) 1612
 3100.6400; .6500; .6600; .7100 (adopted) 1613
 3100.6600, s.2 (repealed) 1613
 3100.8400; .8500; .8700 (adopted) 1612
 3100.8400, s.2 (repealed) 1612

DEPARTMENT OF ECONOMIC SECURITY

(Now JOBS AND TRAINING)

3300.0500 (proposed) 1709

ENERGY, PLANNING AND DEVELOPMENT

Energy Division

4200.2100-.4050; .4300 (adopted) 1501
 4200.2100, s.3,6; .2200, s.3; .2400; .2500; .2700; .3000,
 s.3,4,9,10; .3300; .3400; .3500; .3600; .3700; .3800
 (repealed) 1501
 4200.4500; .4600; .4700; .4800; .4900; .5000 (adopted) 1500
 4215.1400; .2100; .2200; .2450; .2750; .4700
 (adopted) 1687

MINNESOTA RULES AMENDMENTS AND ADDITIONS

DEPARTMENT OF HEALTH

4615.0750-.0760 (proposed)	1609
4625.2300; .5000; 4630.2000; 4695.2900; 4715.3150; .3160; .5900; 4720.0015; 4730.0600 (adopted)	1687
4647.0100-.0400 (adopted)	1589
4650.0102-.0176 (proposed variance)	1706
4656.0010-.0100 (proposed)	1644
4670.0100; .0900; .0930; .0950; .1000; .1200; :1220; .1320; .3070; .4050; .4200; .4210; .4220; .4230; .4240 (adopted)	1502
4670.0930, s.3,4; .3900; .3910; .3920; .3930; .3940 (repealed)	1502
4695.0300; .0800 (second notice)	1473
4695.0300; .0800 (Errata)	1548

HIGHER EDUCATION COORDINATING BOARD

4810.2100; .2500; 4830.0100; .0400; .0600; .0700; .2200; .2300; .2500; .2600; .5200; .5300; .5400; 4840.0500 (proposed)	1649
4830.0600, s.3; .5200 s.2 (proposed repealer)	1649
4830.1000; .1100; .1200; .1300; .1400; .1500 (proposed repealer)	1654
4830.1550-.1555 (proposed)	1654

MN HOUSING FINANCE AGENCY

4900.0010; .1330 (adopted)	1557
4900.0550; .0750; .0760; .0770; .0780 (adopted)	1557
4900.1800-.1803 (proposed)	1495
4900.1804-.1808 (proposed)	1497
4910.0010, s.23, i.B. (repealed)	1557

DEPARTMENT OF LABOR AND INDUSTRY

5205.0010 [Standards, 10 SR 1150] (adopted)	1507
5221.0100-.3200 [republished] (Errata)	1548

BOARD OF MEDICAL EXAMINERS

5600.2500 (adopted)	1476
---------------------------	------

MN POLLUTION CONTROL AGENCY

7001.0520; 7045.0020; .0075; .0120; .0125; .0135; .0214; .0219; .0296; .0450; .0542; .0552; .0640; .0665; .0675; .0685 (adopted)	1688
7002.0010-.0110 (adopted)	1537
7045.0020, s.69; .0125; s.2; .0142 (repealed)	1688
7045.0065; .0552; .0638 (adopted)	1688
7045.1240; .1250; .1260 (repealed)	1688

DEPARTMENT OF PUBLIC SAFETY

7501.0100-.0800 (proposed)	1711
----------------------------------	------

7520.0100; .0500; .0550; .0600; .0620; .0640; .0650; .0700; .1000; .1100 (adopted)	1507
7520.0530, s.3-5 (repealed)	1507

RACING COMMISSION

7869.0100; 7873.0127; .0130; .0140; 7875.0200; 7876.0110; 7877.0110; .0120; .0130; .0140; .0145; .0170; .0175; .0180; 7878.0130; .0140; .0150; .0160; 7883.0100; .0140; .0150; 7891.0100; 7892.0150; 7895.0125; .0250; .0275; .0300; .0350 (proposed)	1672
--	------

SECRETARY OF STATE

8200.1500; .9919; 8210.0200; .9930; .9955; 8235.1000; 8250.0200; .0600; 8220.0050-.4250; 8230.0050-.2350; .3050-.4250 (adopted)	1690
8200.2300; 8220.0100-.0500; .1000-.1400; .2000-.3200; .4000-.4800; .5000-.6400; 8230.0200-.0500; .1000-.2600; .2610; .2700-.3000; .3300; .3500-.4400; .5000-.5800 (repealed)	1690

SMALL BUSINESS FINANCE AGENCY

8300.4010-.4028 (adopted)	1714
---------------------------------	------

DEPARTMENT OF PUBLIC WELFARE (Now HUMAN SERVICES)

9500.0500; 9555.3401; .3403; .3404; .3406; 9500.0530 i.E (repealed)	1715
9500.0510 to .1202; .0520 to .1204; 9555.3400 to 9500.1206; 9500.0530 to .1208; .0531 to .1210; .0532 to .1212; .0540 to .1234; .0555 to .1236; .0560 to .1238; .0570 to .1240; .0580 to .1242; .0590 to .1244; .0600 to .1246; .0610 to .1248; 9555.3402 to 9500.1249; 9555.3408 to 9500.1250; 9555.3409 to 9500.1252 (renumbered)	1715
9500.1200; .1206; .1254; .1256 (adopted)	1715
9500.1101-.1108 [Emer] (extended)	1688
9500.1210-.1221 [Emer] (extended)	1688
9502.0315-.0365; .0375-.0445 (proposed)	1573
9502.1315, s.23; .0415, s.2, 11 (proposed repealer)	1573
9515.1200; 1300; .1400; .1600; .1700; .2200; .2300; .2400; .2500; .2600 (adopted)	1589
9515.1200, s.9; .2300, s.1 (repealed)	1589
9525.1220 (proposed)	1708
9549.0050-.0059 (proposed)	1656
9553.0010-.0080 (adopted)	1502
9575.0010; .0300; .0320; .0340; .0350; .1070; .1400; .1500; .1550; .1570; .1580 (adopted)	1507
9575.1580, s.4-6 (repealed)	1507

PROPOSED RULES

Pursuant to Minn. Stat. of 1982, §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules; and
4. that the rule may be modified if the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Health

Proposed Group Variance from Compliance with Rules Relating to Health Care Cost Information for Freestanding Outpatient Surgery Centers

Notice is hereby given that the Department of Health proposes to adopt a variance for freestanding outpatient surgical centers from certain provisions of Minnesota Rules, parts 4650.0102 to 4650.0176. These rules govern the Minnesota Health Care Cost Information System. Laws of Minnesota 1984, chapter 534, section 11, authorizes the Commissioner of Health to grant such a variance if uniform alternative requirements substantially equivalent to those prescribed in the rules are reasonably necessary to achieve the purposes of Minnesota Statutes, sections 144.695 to 144.703.

The Department of Health received a request on behalf of all freestanding outpatient surgical centers for a group variance. The Department has reviewed the merits of the request, and finds that a group variance is warranted.

Interested persons have 30 days to submit comments on the proposed group variance. A copy of the request for a group variance and the Department's Statement of Background and Findings is available upon request from:

John Klein
Health Economics Program
Department of Health
717 Delaware St. SE
Minneapolis, MN 55440
(612) 623-5131

Sister Mary Madonna Ashton
Commissioner, Department of Health

Group Variance as Proposed

Part 1. AUTHORITY.

This group variance is granted pursuant to Laws of Minnesota 1984, chapter 534, section 11. The group variance substitutes alternative requirements for certain provisions of Minnesota Rules, parts 4650.0102 to 4650.0176.

Part 2. DEFINITIONS.

The definitions contained in Minnesota Statutes, section 144.696, and Minnesota Rules, part 4650.0102, apply to this group variance, unless otherwise stated.

Part 3. SCOPE.

All freestanding outpatient surgical centers licensed under Minnesota Statutes, sections 144.50 to 144.58, are subject to the provisions of this group variance.

Part 4. RENEWAL.

The Commissioner of Health shall review the terms of this group variance no less frequently than annually, to determine whether or not the variance should be continued or its terms should be modified, to accomplish the purposes of Minnesota Statutes, sections 144.695 to 144.703. In reviewing the variance, the Commissioner shall consider the comments and suggestions of freestanding outpatient surgical centers. Based on the findings of such reviews, the Commissioner shall:

A. make any necessary modifications in the terms of this group variance, providing no less than 30 days advance notice of the modifications to affected outpatient surgical centers. Where appropriate, reporting requirement modifications shall allow a reasonable data collection period before findings must be reported; and

B. renew or terminate the group variance on the anniversary date of its adoption, providing no less than 30 days advance notice of termination to affected outpatient surgical centers.

Part 5. RULES SUPERSEDED.

All provisions of Minnesota Rules, parts 4650.0102 to 4650.0176, apply to outpatient surgical centers, except the following provisions. The following provisions are superseded by the alternative provisions of this group variance:

- A. Minnesota Rules, part 4650.0104, Scope;
- B. Minnesota Rules, part 4650.0108, Report Requirements;
- C. Minnesota Rules, part 4650.0110, subpart 3, item J, Independent Financial Audit;
- D. Minnesota Rules, part 4650.0112, Rate Revenue and Expense Report;
- E. Minnesota Rules, part 4650.0114, Interim Increase Report;
- F. Minnesota Rules, part 4650.0116, Alternative Reporting Requirements;
- G. Minnesota Rules, part 4650.0118, Selection Criteria;
- H. Minnesota Rules, part 4650.0120, Alternative Rate Revenue and Expense Report;
- J. Minnesota Rules, part 4650.0122, Alternative Interim Increase Report;
- K. Minnesota Rules, part 4650.0134, Filing of Report of Rate Revenue and Expense;
- L. Minnesota Rules, part 4650.0136, Filing of Interim Increase Report;
- M. Minnesota Rules, part 4650.0166, Fees;
- N. Minnesota Rules, part 4650.0168, Rate Revenue and Expense Report Fee;
- O. Minnesota Rules, part 4650.0170, Interim Increase Report Fee; and
- P. Minnesota Rules, part 4650.0172, Timely Report.

Part 6. FINANCIAL AUDIT.

In addition to the provisions of Minnesota Rules, part 4650.0150, if the system determines that all or any part of an outpatient surgical center's annual financial information report may be inaccurate, the system may:

A. require the outpatient surgical center to review all or part of the report to determine its accuracy and, if necessary, recompile the report; and

B. require the outpatient surgical center to retain an independent public accountant to audit all or part of the report and associated procedures to determine its accuracy.

Part 7. ANNUAL STATUS REPORT.

Outpatient surgical centers shall file an annual status report with the system. The report must be filed no later than 120 days after the close of that facility's annual accounting period. The report must be filed on forms and according to instructions provided by the system, and must include but is not limited to the following information:

- A. a description of the services provided during the most recently completed fiscal year;
- B. a list of surgical procedures and services currently offered;
- C. a description of the facility's service capacity during the most recently completed fiscal year;
- D. a description of the facility's sources of reimbursement during the most recently completed fiscal year;
- E. a description of the facility's ownership and affiliation relationships; and
- F. other information necessary to accomplish the purposes of Minnesota Statutes, sections 144.695 to 144.703.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

PROPOSED RULES

Part 8. RATE MODIFICATION REPORT.

Outpatient surgical centers shall file rate modification reports with the system. The reports must be filed no less than 60 days before the effective date of a modification to the facility's aggregate rate schedule. For the purposes of this requirement, "aggregate rate schedule" means the facility's average expected revenue per patient visit; and "modifications" means changes in the aggregate rate schedule due to changes in the facility's prices. The report must be filed according to instructions provided by the system.

Part 9. FILING FEES.

The following filing fees apply when an outpatient surgical center files required reports with the Commissioner of Health, rather than with a voluntary, nonprofit reporting organization:

A. for an annual financial information report, the filing fee is \$100 or 0.00025 times the facility's gross revenue during its most recently completed fiscal year, whichever is less;

B. for an annual status report, the filing fee is \$100 or 0.00025 times the facility's gross revenue during its most recently completed fiscal year, whichever is less; and

C. for a rate modification report, the filing fee is \$10.

Part 10. LATE FILING FEE.

Outpatient surgical centers that submit a required report after the due date, and that have not obtained an extension of time pursuant to Minnesota Rules, part 4650.0140, are subject to a late filing fee of \$10 per day that the report is late. For this purpose, a report must be complete to be considered to have been filed, subject to the system's review pursuant to Minnesota Rules, part 4650.0150.

Department of Human Services

Proposed Rule Relating to Medical Assistance Reimbursement to Day Service Providers

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the State Department of Human Services proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statutes, section 256B.501, subdivision 10.

All persons have 30 days or until 4:30 p.m., March 19, 1986, in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless sufficient number withdraw their request. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to:

Lisa Rotegard
MR Division
Department of Human Services
4th Floor, Centennial Building
St. Paul, MN 55155
(612) 297-3829

The proposed rule may be modified if the modifications are supported by data and views and do not result in a substantial change in the proposed rule as noticed.

A copy of the proposed rules is attached to this notice. A free copy of the rule is available upon request from:

Vicki Lear
MR Division
Department of Human Services
4th Floor, Centennial Building
St. Paul, MN 55155
(612) 296-2160

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Vicki Lear upon request.

The adoption of this rule amendment will not require any expenditures of public moneys by local public bodies.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Lisa Rotegard.

January 24, 1986

Leonard W. Levine
Commissioner of Human Services

Rule as Proposed

9525.1220 CLIENT ELIGIBILITY.

The day service provider may receive medical assistance reimbursement for providing day training and habilitation services to an eligible person if the person meets the criteria in items A to ~~F~~ G:

A to C. [Unchanged.]

D. the person is not of school age as defined in Minnesota Statutes, section 120.17, subdivision 1; ~~and~~

E. [Unchanged.]

F. the person does not receive day training and habilitation services at the ICF/MR from an approved day service provider or as part of the medical assistance rate of the ICF/MR; and

G. the person is currently capable of only "inconsequential" work activity as defined in part 9525.1210, subpart 15 and the service provided is supervision, assistance, or training during habilitative work activities.

Department of Jobs and Training

Proposed Rule Relating to Rehabilitation Services Fees

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the State Department of Jobs and Training (Department) proposes to adopt the above entitled rules. A copy of the proposed rules is attached to this notice.

Because fees for rehabilitation services are fixed by rule rather than law, the procedures for adoption of noncontroversial rules will be used. See Minnesota Statutes, section 16A.128, subdivision 2(a) (1984). Authority for adoption of these rules is contained in Minnesota Statutes, section 129A.03. (b), (c), and (m).

Persons interested in these rules will have 30 days to submit comments in support or opposition to the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Department.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

PROPOSED RULES

Interested persons should submit comments to:

Roger Sorbel
Department of Jobs and Training
Division of Rehabilitation Services
5th Floor, 390 North Robert Street
St. Paul, Minnesota 55101

Unless the Department receives, within the comment period, written requests for a hearing on the proposed rules from twenty percent of the persons who will be required to pay a fee, a public hearing will not be held. In the event that a public hearing is required, the Department will proceed according to the provisions of Minnesota Statutes, sections 14.131-14.20 (1984), as amended by Minnesota Laws 1985, First Special Session, Chapter 10, section 38. If a person desires to request a public hearing, the Department requests that the persons identify the particular provisions objected to, the suggested modifications to the proposed language and data relied on to support the suggested modifications.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General or who wish to receive a copy of the final rules as proposed for adoption, should submit a written request to Mr. Sorbel at the above address.

A Statement of Need and Reasonableness has been prepared and is now available. A copy of this document may be obtained by contacting Mr. Sorbel at the above address.

A document entitled "Fee Review" is available in which the Commissioner of Finance has determined the basis for the fees. A copy of this document may be obtained by contacting Mr. Sorbel at the above address.

Pursuant to Minnesota Statutes, section 14.115, subdivision 2, the impact on small business has been considered in the promulgation of the rules. Persons who wish to present evidence or argument as to the rules' effect on small business may do so. The Department's position regarding the impact of the rules on small business is set forth in the Statement of Need and Reasonableness.

Rule as Proposed (all new material)

3300.0500 FEES FOR REHABILITATION SERVICES.

The Division of Rehabilitation Services in the Department of Jobs and Training will charge \$50 per hour for rehabilitation services described in Minnesota Statutes, section 176.102, subdivision 9, clause (b). The authority for charging the hourly rate is contained in Minnesota Statutes, section 129A.03, paragraphs (b), (c), and (m). The rehabilitation services are the following:

- A. jobs analysis;
- B. labor market surveys;
- C. vocational counseling;
- D. job development;
- E. testing;
- F. on-the-job training;
- G. placement;
- H. training in job seeking skills;
- I. analysis of transferable skills;
- J. follow-up;
- K. referrals; and
- L. monitoring of medical and training services.

Department of Public Safety Bureau of Criminal Apprehension

Proposed Rules Relating to Preliminary Screening Breath Test

Notice of Intent to Adopt Rules without a Hearing

Notice is hereby given that the State Department of Public Safety is proposing to adopt the above entitled rules without a public hearing. The Commissioner of Public Safety has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow procedures set forth in Minn. Stat. Sections 14.22 through 14.28.

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the proposed rules. Public comments are encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for comment, and any change proposed. The proposed rules may be modified prior to final adoption if modifications are supported by the data and views submitted to the Department of Public Safety and do not result in a substantial change in the proposed language.

If 25 or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will be held. The written request must be specific on which rule(s) a hearing is desired. Identification of the portion of the proposed rule addressed, the particular objection, the suggested modifications, and the reasons or data relied upon to support the suggested modifications are requested. Any person requesting a public hearing should state his or her name and address. In the event a public hearing is required, the department will proceed according to the provisions of Minn. Stat. Sections 14.131 through 14.20.

Persons who wish to submit comments or a written request for a public hearing, or persons who wish to receive a free copy of this notice and/or a free copy of the proposed rules, should address their correspondence to the address below and include the name of the rulemaking:

Frank Dolejsi
Bureau of Criminal Apprehension
1246 University Avenue
St. Paul, MN 55155

The Department's authority to adopt the proposed rules is contained Minn. Stat. § 169.128 and 169.121, subd. 6. A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the date and information relied upon to support the proposed rules has been prepared and is available free from the Department of Public Safety upon request to the above address.

You are hereby advised, pursuant to Minn. Stat. Section 14.115, "Small business consideration in rulemaking," that the proposed rules may have an impact on some small businesses in Minnesota. The portions of the rules which may affect small businesses include:

1. Requiring that a preliminary screening breath test device retain its calibration with ± 0.01 alcohol concentration for a minimum of seven days. This should not be a burden on manufacturers of those devices since all PBT's currently in use meet this standard.
2. The two year renewal requirement for approval of PBT devices is eliminated, but requires supportive documentation when design changes are made. This will be a less cumbersome procedure for approval of devices.

Upon adoption of the final rules without a public hearing, the proposed rules, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the date of submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written request to the above address.

Please be advised that Minn. Stat. Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. Minn. Stat. Section 10A.01, Subd. 11 defines a lobbyist as any individual: (a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with

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PROPOSED RULES

public officials; or (b) who spends more than \$250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5615.

The department estimates that there will be no cost to local public bodies in the state to implement the rules for the two years immediately following their adoption, within the meaning of Minnesota Statutes Section 14.11, Subd. 1. Any costs incurred by local jurisdictions in the permit issuance process can be recovered through imposition of a fee authorized by the rules.

A copy of the proposed rules is attached to this notice.

January 28, 1986

Paul J. Tschida
Commissioner of Public Safety

Rules as Proposed

7501.0100 DEFINITIONS.

Subpart 1. **Scope.** For purposes of this chapter, the following terms ~~shall~~ have the meanings given them in this part.

Subp. 2. ~~Blood-alcohol~~ **Alcohol concentration.** "~~Blood-alcohol~~ **Alcohol concentration**" means the percent by weight of alcohol in the blood, as defined by the number of grams of alcohol in 100 milliliters of blood ~~210 liters of breath~~.

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of public safety of ~~the state of~~ Minnesota.

Subp. 4. **Manufacturer.** "Manufacturer" means a manufacturer, dealer, distributor, or supplier of a screening device offered for sale to law enforcement agencies in ~~the state of~~ Minnesota.

Subp. 5. **Negative result.** "Negative result" means a test of an individual by means of a screening device which indicates a ~~blood-alcohol~~ an alcohol concentration of less than 0.10 ~~percent by weight~~.

Subp. 6. **Positive result.** "Positive result" means a test of an individual by means of a screening device ~~which that~~ indicates a blood-alcohol ~~an alcohol~~ concentration of 0.10 ~~percent by weight~~ or greater more.

Subp. 7. **Screening device.** "Screening device" means a device that by analysis of a sample of breath will indicate whether the ~~blood-alcohol~~ alcohol concentration of an individual tested is greater more or less than 0.10 ~~percent by weight~~.

7501.0200 PURPOSE AND SCOPE.

The purpose of parts 7501.0100 to 7501.0800 is to establish standards and minimum specifications for preliminary screening breath test devices, to be used pursuant to ~~the provisions of~~ Minnesota Statutes, section 169.121, subdivision 6.

7501.0300 MINIMUM STANDARDS AND SPECIFICATIONS.

All Screening devices used pursuant to Minnesota Statutes, section 169.121, subdivision 6, ~~shall~~ must meet the following minimum standards and specifications:

A. Accuracy of the screening device ~~shall~~ must remain consistent during a storage life of one year from the date of purchase, at storage temperatures ranging between minus 30 degrees Fahrenheit to 120 degrees Fahrenheit.

B. The reading of a screening device after a sample of breath is properly taken ~~shall~~ must be ascertainable under reduced levels of illumination. The screening device must not indicate numerical results when the test result is positive.

C. Operation of the screening device must be simple, ~~so~~ enough that operators can be trained to use the screening device with four hours or less of formal instruction.

D. Each individual screening device must be packaged with a complete set of instructions as to how the device is to be properly used for taking and analyzing a sample of breath.

E. When a sample of breath is properly taken from a person with an actual ~~blood-alcohol~~ alcohol concentration of 0.05 ~~percent~~ or less ~~by weight~~, the screening device ~~shall~~ must not indicate a positive result.

F. When a sample of breath is properly taken from a person with an actual ~~blood-alcohol~~ alcohol concentration of 0.13 ~~percent~~ or ~~greater by weight~~ more, the screening device ~~shall~~ must not indicate a negative result.

G. Other than as limited in items E and F, when a sample of breath is properly taken from a person with an actual ~~blood-alcohol~~ alcohol concentration of 0.06 ~~percent~~ to 0.12 ~~percent by weight~~, the screening device ~~shall~~ must not have a deviation greater than ± 0.02 ~~percent blood-alcohol~~ alcohol concentration.

H. A screening device intended to perform more than one test and requiring periodic calibration must, once calibrated, retain its calibration within ± 0.01 alcohol concentration for a minimum of seven days when tested daily.

I. A screening device that is disposable after a single use, and of which the accuracy ~~will be~~ is affected by storage, must be ~~labeled~~ labeled with an expiration date.

7501.0400 APPLICATION FOR APPROVAL, REQUIRED INFORMATION.

In each application submitted to the commissioner for approval of a screening device, the following information ~~shall~~ must be included:

- A. the name of the manufacturer, and the brand or trade name under which ~~such~~ the screening device is to be marketed;
- B. the maximum and minimum temperatures, at which the screening device may be used and still provide an accurate result of the ~~blood-alcohol~~ alcohol concentration;
- C. a description of the screening device, the theory under which it operates, and instructions for its use; and
- D. a certification from a nationally recognized independent testing laboratory that the screening device meets the minimum specifications and standards as set out by part 7501.0300.

7501.0500 APPLICATION FOR APPROVAL, SAMPLES REQUIRED.

Each application submitted to the commissioner for approval of a screening device ~~shall~~ must include:

- A. in the case of a screening device disposable after one use, 50 samples of ~~such~~ the device for use by the commissioner to verify that the information contained in the application for approval is correct;
- B. in the case of a screening device not disposable after one use, one ~~such~~ device with ~~such~~ disposable components or other materials sufficient to conduct 50 tests of breath, with the screening device to be returned to the manufacturer after verification by the commissioner of the information contained in the application.

7501.0600 CERTIFICATE OF APPROVAL.

When the manufacturer of a screening device has complied with ~~the provisions of~~ parts 7501.0400 and 7501.0500, and ~~it appears to the satisfaction of~~ the commissioner is satisfied that the screening device submitted complies with the minimum standards and specifications set out by part 7501.0300, the commissioner may issue a certificate of approval. The commissioner shall act upon ~~all~~ applications within ~~60~~ 120 days unless other arrangements are made with the manufacturer. The manufacturer shall include in ~~all~~ shipments of ~~his~~ a device a copy of or reference to the Department of Public Safety certificate of approval.

7501.0700 DURATION OF APPROVAL.

Approval of a screening device issued pursuant to part 7501.0600 ~~shall remain in force and effect for a period of two years, except that such~~ remains effective until revoked. Approval may be revoked by the commissioner when:

A. The manufacturer changes the design or components of a screening device already approved. ~~It shall be the duty of~~ The manufacturer ~~to shall~~ inform the commissioner of any changes in the components or design. The manufacturer shall supply supportive documentation that the changes will not affect the ability of the device to comply with part 7501.0300.

B. It appears to the commissioner that ~~such~~ the screening device does not currently meet the minimum standards and specifications required by ~~the provisions of~~ part 7501.0300.

7501.0800 RECERTIFICATION.

If a certificate of approval issued pursuant to part 7501.0600 ~~expires or~~ is revoked by the commissioner, a new certificate of approval will be issued only after compliance by the manufacturer with ~~the provisions of~~ parts 7501.0400 and 7501.0500.

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ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.14-14.28 have been met and five working days after the rule is published in *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in Minn. Stat. § 14.33 and upon the approval of the Revisor of Statutes as specified in § 14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted emergency rule will be published in the manner provided for adopted rules under § 14.18.

Energy and Economic Development Authority

Adopted Rules Governing Energy Financial Assistance

The rules proposed and published at *State Register*, Volume 10, Number 19, pages 1021-1028, November 4, 1985 (10 S.R. 1021) are adopted with the following modifications:

Rules as Adopted

8300.4011 DEFINITIONS.

Subp. 2. ~~Annual total benefits.~~ "Annual total benefits" means B_t in subpart 8 that accrue to the applicant plus the annual monetary value of outputs expected to result from the undertaking of a qualified energy project that accrue to the public at large. Outputs must be estimated in dollars based upon the most recent credible evidence available including scientific studies, economic studies, or other analysis. Outputs include the estimated value of new jobs produced; the monetary value of decreased levels of air, water, or other forms of pollution; or other avoided public costs.

Subp. 3. ~~Annual total costs.~~ "Annual total costs" means the annual repayments of interest plus principal for I in subpart 7, incurred by the applicant of the qualified energy project plus the annual incremental monetary costs incurred by the state through the use of appropriated money in any one or a combination of the funds administered by the authority, the economic recovery fund, or other appropriations made available to assist the qualified project by the legislature.

Subp. 4. ~~Avoided public costs.~~ "Avoided public costs" include the estimated dollar costs that could reasonably be expected to be incurred during the useful life of the qualified energy project by a unit of local, state, or federal government, if the project is not undertaken, but will be avoided if the project is financed. Avoided public costs include the costs of siting, designing, or constructing facilities of any type necessary to comply with environmental regulations; or the costs associated with unemployment compensation, welfare benefits, or other benefits that would otherwise be paid to existing workers who would be unemployed if the qualified energy project is not undertaken.

Subp. 5. ~~Cost effective.~~ Except for qualified energy projects for conservation of energy, "cost effective" means that the present value of a project's benefits exceeds the present value of its costs over the life of the project. Only those costs and benefits that can be quantified in dollars may be included in determining whether a project is cost-effective. The discount rate used in determining present value shall include the time value and incremental carrying cost of money. For qualified energy projects for conservation of energy a project is cost-effective when it has a payback period of ten years or less and the payback period is less than the useful life of the project.

Subp. 6 2. ~~Energy financial assistance.~~ "Energy financial assistance" means loans, loan guarantees or insurance, to enter into or pay fees on insurance contracts, letters of credit, municipal bond insurance, surety bonds, or similar obligations and other agreements or contracts with financial institutions or providers of similar services and any other use of money from the energy development account and the energy loan insurance account as permitted by the act.

Subp. 7 3. ~~Investment cost.~~ "Investment cost" means: I = the total amount of the loan obtained by the applicant required by the qualified energy project to generate annual net cost savings or net revenues equal to B_t in subpart 8 4. "I" is the present value of annual repayments of the interest plus principal discounted at the rate r in subpart 8 4, over the term of the loan for I .

Subp. 8 4. ~~Present value.~~ "Present value" of the annual net cost savings or net revenues generated by the qualified energy project means:

$$L = \sum_{t=1} B_t / (1+r)^t$$

where B_t = annual net cost savings or net revenues realized by the applicant for each year t of the expected useful life of the qualified energy project. This represents annual cost savings or annual revenues net of annual operating costs excluding annual interest plus principal payments for the investment cost of the qualified energy project.

L = expected useful life of the qualified energy project.

r = annual rate of interest charged to the applicant on the investment cost of the qualified energy project.

Subp. 9 5. **Project**. "Project" means that which is funded or secured or is proposed to be funded or secured by energy financial assistance. address the following items as specified in part 7045.0538,

8300.4017 ELIGIBLE LOANS FOR ENERGY DEVELOPMENT LOAN PROGRAM.

Subp. 6. **Findings of public purpose**. The authority shall review and consider approval of an application for an energy loan on the basis of effectuating the purposes of the act, including determinations regarding the following:

G. with respect to a resource recovery project, the project will be cost-effective in accordance with part 8300.4011; ~~subpart 5.~~

Department of Human Services

Adopted Rules Relating to Referral of General Assistance Applicants and Recipients to Other Maintenance Benefit Programs

The rules proposed and published at *State Register*, Volume 10, Number 25, pages 1343-1354, December 16, 1985 (10 S.R. 1343) are adopted with the following modifications:

Rules as Adopted

9500.1206 DEFINITIONS.

Subp. 16. **Initial supplemental security income payment or initial SSI payment**. "Initial supplemental security income payment" or "initial SSI payment" means the first payment of retroactive SSI benefits to the recipient ~~covering the~~ that includes a period when general assistance benefits were also paid.

Subp. 17. **Interim assistance**. "Interim assistance" means the total amount of general assistance provided ~~to for the recipient's~~ assistance unit recipient, based ~~upon~~ on the state assistance standards and the negotiated rate provisions of part 9500.1249, to cover the period for which the initial payment of other maintenance benefits is made. The amount of general assistance considered interim assistance is limited to the amount the monthly payments for the assistance unit would have been reduced if the applicant or recipient had not been included in the assistance unit. The interim assistance period begins with the month of application for general assistance, the first month of eligibility for the other maintenance benefits, or the date the interim assistance authorization agreement is signed, whichever is latest. The interim assistance period ends with the last month covered by the initial payment of the other maintenance benefits. The term does not include per diem payments made to shelters for battered women pursuant to Minnesota Statutes, section 256D.05, subdivision 3.

Subp. 18. **Interim assistance authorization agreement**. "Interim assistance authorization agreement" means the agreement in which the general assistance applicant or recipient agrees to reimburse the local agency for the amount of general assistance provided ~~to his for him~~ or her ~~assistance unit~~ during the period when eligibility for another maintenance benefit program is being determined. The agreement must require reimbursement to the local agency only when the general assistance applicant or recipient is found eligible for another maintenance benefit program and the initial payment of those other maintenance benefits has been made.

Subp. 21. ~~Mentally ill~~ **Mental illness**. "~~Mentally ill~~ Mental illness" means the condition of a person who has a psychological disorder resulting in behavior that severely limits the person in obtaining, performing, or maintaining suitable employment.

Subp. 22. ~~Mentally retarded~~ **Mental retardation**. "~~Mentally retarded~~ Mental retardation" means the condition of a person who has demonstrated deficits in adaptive behavior and intellectual functioning which is two or more standard deviations below the mean of a professionally recognized standardized test ~~that~~ and the condition severely limits the person in obtaining, performing, or maintaining suitable employment.

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ADOPTED RULES

Subp. 25. **Other maintenance benefits.** "Other maintenance benefits" means any of the following:

G. other programs identified by the local agency that provide periodic payments that can be used to meet basic needs and ~~may that, if received, would~~ reduce or eliminate the need for general assistance.

9500.1254 REFERRAL TO OTHER MAINTENANCE BENEFIT PROGRAMS.

Subp. 2. **Informing and referral requirement.** When the local agency determines that the applicant or recipient is potentially eligible for other maintenance benefits, the local agency shall ~~inform~~ refer the applicant or recipient to the other maintenance benefit program on a form prescribed by the commissioner by informing the applicant or recipient orally and in writing of the following:

H. that the applicant or recipient may elect to receive special services to assist him or her in applying for SSI benefits, in accordance with part 9500.1256, subpart 1, and that the applicant or recipient has a right to choose to receive special services from ~~the local agency or from another~~ a qualified provider;

Subp. 3. **Special referral requirement provisions.** When the local agency determines that the applicant or recipient is potentially eligible for another maintenance benefit program, the local agency shall refer the applicant or recipient to a chosen qualified provider and the other maintenance benefit program as follows in accordance with items A and B:

A. ~~The referral must be made on a form prescribed by the commissioner. A copy of the referral form must be mailed to the other maintenance benefit program office.~~

~~B.~~ If the applicant or recipient is determined to be potentially eligible for maintenance benefits from SSI, the local agency shall:

(2) furnish the applicant or recipient with a list of qualified providers with whom the local agency has contracted to provide special services to applicants or recipients or who have asked to be included on the list;

(3) ~~refer the applicant or recipient to the Social Security Administration's local office to apply for SSI benefits;~~

(4) ~~promptly~~ notify the Social Security Administration's local office of the applicant's or recipient's potential eligibility for SSI on the date of referral so that the earliest potential date of eligibility for SSI can be established; and

~~(5)~~ (4) if the applicant or recipient elects at any time to receive the special services specified in part 9500.1256, subpart 1 from a qualified provider other than the local agency, the local agency shall refer the applicant or recipient to the chosen provider. If the local agency has not contracted with the chosen provider, the local agency must enter into a contract with that qualified provider to provide special services to applicants or recipients who apply for SSI benefits.

~~C.~~ B. If the local agency determines that an applicant or recipient is potentially eligible for another maintenance benefit program, and the applicant or recipient has previously applied for and been found ineligible for that other maintenance benefit program, he or she shall not be required to appeal from that decision or to reapply for that other maintenance benefit program unless one of the following conditions is met:

Subp. 4. **Requirements upon referral for other maintenance benefits.** When the local agency refers an applicant or recipient to another maintenance benefit program as provided under subpart 3 ~~2~~, the applicant or recipient shall do the following:

Subp. 7. **Reimbursement for interim assistance.** A local agency must seek reimbursement for the interim assistance provided to a person who has executed an interim assistance authorization agreement under subpart 4, item D, when the person receives a retroactive payment from the other maintenance benefit program unless reimbursement is prohibited under federal or state law. Reimbursement for interim assistance and special services provided to an SSI applicant or recipient is governed by part 9500.1256, subpart 2.

The local agency must request reimbursement for interim assistance from the person receiving other retroactive maintenance benefits, except for SSI; ~~and. If a request for reimbursement under this subpart is denied, the local agency may institute a civil action; if appropriate, to recover the interim assistance based on the interim assistance authorization agreement. The local agency must take no action other than a civil action to recover the interim assistance.~~ From the interim assistance recovered, the local agency may retain 25 percent as reimbursement for the county's share of the interim assistance provided, and must credit the balance to the state as an advance payment to the local agency for the state's share of the next month's general assistance grants.

9500.1256 SPECIAL SERVICES FOR SSI APPLICANTS.

Subpart 1. **Special services.** A recipient who is referred to SSI in accordance with part 9500.1254, ~~subpart~~ subparts 2 and 3, item B, may elect to receive special services to assist him or her in obtaining SSI benefits. Special services for which reimbursement for fees, costs, or disbursements may be claimed under subpart 2 or 3 are limited to the following:

Subp. 3. **Reimbursement to qualified providers under contract with the local agency to provide special services.** Qualified providers under contract with the local agency to provide special services to general assistance applicants or recipients shall be reimbursed from the amount of interim assistance recovered by the local agency under subpart 2 in the following manner:

B. The local agency must reimburse a qualified provider under contract with the local agency for the provider's reasonable actual fees, costs, and disbursements, including medical reports and expert testimony related to appeals, litigation, and providing special services to an applicant or recipient in accordance with the following:

(3) when a qualified provider requests reimbursement from the local agency for fees, costs, or disbursements related to services provided, the qualified provider shall document the total number of hours of services provided to the applicant or recipient and provide a record of its costs and disbursements.

C. A qualified provider under contract to provide special services must comply with the following:

(2) a qualified provider shall not seek reimbursement from the applicant or recipient for fees related to the provision of special services. If a qualified provider intends to seek reimbursement for costs and disbursements from an applicant or recipient in the event the applicant or recipient is determined to be ineligible for SSI and the qualified provider therefore will not be fully reimbursed by the local agency, the qualified provider must so inform the applicant or recipient and obtain the applicant's or recipient's written consent prior to providing the special services. ~~In addition,~~ The qualified provider must also inform the applicant or recipient that he or she may receive the special services from the local agency without cost ~~and must obtain the applicant's or recipient's consent to provide the special services to the applicant or recipient.~~

F. If the local agency and one or more other qualified providers provide special services to an applicant or recipient, and the amount of interim assistance recovered by the local agency under subpart 2, item A, subitems (2) and (3), exceeds the amount necessary to fully reimburse the qualified providers for fees, costs, and disbursements, the local agency may retain ~~up to the full amount of interim assistance recovered~~ the excess to the extent allowed under subpart 2, item A, subitem (2).

G. The local agency ~~may~~ shall reimburse a qualified provider for fees, costs, and disbursements for special services provided during the six-month period before the applicant or recipient was referred to the qualified provider, unless the general contracting procedures of the particular county prohibit this payment. The provider's fees, costs, or disbursements for special services provided before the person's application for general assistance may be reimbursed only if funds remain after reimbursement for special services provided to the person after the person made application for general assistance.

Subp. 4. **Termination of special services and contracts.** Special services and contracts must be terminated in the following manner:

C. If a qualified provider fails to perform all or part of the terms of the contract with the local agency, the local agency may terminate the contract with the provider. The local agency shall terminate the contract and mail written notice to the qualified provider and to the recipients served by the qualified provider. The notice must specify the local agency's grounds for terminating the contract. Termination of the contract is effective three days after the notice is mailed to the qualified provider. The local agency shall also give the recipient a list of other qualified providers who have contracted with the local agency to provide the special services specified in subpart 1 or who have asked to be included on the list. The qualified provider shall not be reimbursed for fees, costs, or disbursements related to special services provided after the effective date of termination.

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OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Board of Animal Health

Special Board Meeting

A quarterly meeting of the Board of Animal Health has been scheduled for Friday, April 11, 1986 at the Board of Animal Health offices, St. Paul, MN at 9:30 a.m.

Information about this meeting may be obtained by calling the Board office at 612-296-5000.

February 4, 1986

Dr. Thomas J. Hagerty
Executive Secretary

Department of Energy and Economic Development Minnesota Energy and Economic Development Authority

Outside Opinion Sought Regarding Proposed Modification to Rules Governing Minnesota Fund Loans

Notice is hereby given that the Minnesota Energy and Economic Development Authority is seeking information or opinions from sources outside the agency in preparing to modify existing rules governing business loans for new and existing businesses under the Minnesota fund loan program. Current considerations are to amend Minn. Rule parts 8300.3030 to 8300.3034 where applicable to modify certain provisions relating to rules adopted by the Energy and Economic Development Authority.

The promulgation of these rules is authorized by Minnesota Statutes § 116M.08, Subd. 4 which permits the Energy and Economic Development Authority to amend such rules where necessary or proper to effectuate its purposes as set forth in Minnesota Statutes, Ch. 116M, 472, and 474.

The Department of Energy and Economic Development requests comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to:

Debra J. Kultala
Financial Management Division
Minnesota Department of Energy and Economic Development
900 American Center Building
150 East Kellogg Boulevard
St. Paul, Minnesota 55101

Oral statements will be received during regular business hours over the telephone at (612) 296-4337 and in person at the above address. Any written material received by the Minnesota Department of Energy and Economic Development shall become part of the record in the event the rules are promulgated.

Mark B. Dayton, Commissioner
Department of Energy and Economic Development

Department of Human Services

Outside Opinion Sought Concerning Amendments to the Rules Governing the Administration of Child Protective Services

Notice is hereby given that the Department of Human Services plans to promulgate amendments to permanent Minnesota Rules, Parts 9560.0250 to 9560.0300 which govern the administration of child protective services. Rule parts 9560.0250 to 9560.0300 are authorized by Minnesota Statutes, section 256.01, subdivisions 2 and 4, Minnesota Statutes, section 256E.05, subdivision 1 and Minnesota Statutes section 257.175.

Amendments to these rule parts are necessary to clarify specific portions of the rule parts and to incorporate changes that have been made in the statutes governing child protective services since the rules were promulgated in 1982. Amendments are being considered in each of the following rule parts.

Part 9560.0270 Definitions

Part 9560.0280 Delivery of Child Protective Services;

Part 9560.0290 Official Reports; and

Part 9560.0300 Administrative Requirements

All interested or affected parties are requested to participate. Statements of information and comment may be made orally or in writing. Written statements of information and comment should be addressed to:

Paul Spears
Child Protective Services
Department of Human Services
4th Floor
Centennial Office Building
658 Cedar Avenue
St. Paul, Minn. 55155

Oral statements of information and comment will be received during regular business hours over the phone at (612) 296-6740.

All statements of information and comment will be accepted until further notice is given. Any written material received by the Department shall become part of the hearing record.

Department of Human Services Health Care Programs Division

Meetings on Medicaid Prepaid Demonstration Project

The Minnesota Department of Human Services is implementing a Prepaid Medicaid Demonstration Project in Hennepin, Dakota, and Itasca counties. The purpose of the project is to determine if contracting with prepaid health plans allows the state and counties to provide quality health care to Medical Assistance clients for a fixed and predictable amount of money. The state is contracting with prepaid health plans to provide the covered services. Medical Assistance clients are being asked to choose which of the health plans they wish to join.

Health care providers who want MA reimbursement for serving these groups of people must be affiliated with one or more of the participating plans.

To answer health care providers' questions about the implementation of the project in Dakota and Hennepin counties, the following open meetings have been scheduled for health care providers and their staff; e.g., administrators, business managers, clinical staff. Representatives of the participating health plans have been invited to be present to answer questions.

Dakota County

Wednesday, February 26

7:00-8:30 a.m.

or 3:00-4:30 p.m.

Wentworth Office Building

33 East Wentworth Avenue

West St. Paul

(Just off Robert Street on Wentworth)

Hennepin County

Wednesday, March 12

7:00-8:30 a.m.

or 3:00-4:30 p.m.

Hennepin County Government Center

Auditorium (lower level)

Department of Human Services Health Care Programs Division

Outside Opinion Sought Concerning Amendments to Inpatient Hospital

Reimbursement Under the Medical Assistance and General Assistance Medical Care Programs

Notice is hereby given that the Minnesota Department of Human Services is considering amendments to Minnesota Rules, Parts

OFFICIAL NOTICES

9500.1090 to 9500.1155, rules governing inpatient hospital reimbursement under the Medical Assistance and General Assistance Medical Care programs.

The Commissioner is authorized to promulgate rules governing reimbursement methods and procedures for services rendered by hospitals participating in the Medical Assistance or General Assistance Medical Care programs, under Minnesota Statutes section 256.969, subdivision 6. Rule changes being considered include allowable base year cost per admission computations, relative values, pass-through costs, disproportionate population adjustment, adjustment of outlier and transfer reimbursement formulas, and separate rate computations for specific welfare program eligibility groups (such as recipients of Aid to Families with Dependent Children).

All interested or affected persons or groups are requested to participate. Statements of information and comment may be made orally or in writing. Written statements of information and comment may be addressed to:

Thomas JoliCoeur
Health Care Programs
Department of Human Services
Fourth Floor, Space Center
444 Lafayette Road
St. Paul, Minnesota 55101

Oral statements of information and comments will be received by telephone at (612) 297-2022 between 9:00 a.m. and 4:00 p.m. Mondays through Fridays, except holidays.

Statements of information and comment will be accepted until further notice. Any written material received by the Department shall become part of the rulemaking record. Oral statements will be considered but will not become part of the rulemaking record.

Department of Jobs and Training Division of Rehabilitation Services

Outside Opinion Sought Concerning a Proposed Rule Certifying Centers for Independent Living

Notice is hereby given that the Division of Rehabilitation Services is seeking information or opinions from interested or affected persons or groups in preparing to promulgate permanent rules governing certification of Centers for Independent Living. Authority for promulgation of these rules is contained in Minnesota Statutes, section 129A.10 (1985 Supplement).

The Division of Rehabilitation Services requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to:

Scott Rostron
Division of Rehabilitation Services
390 North Robert Street, Fifth Floor
St. Paul, Minnesota 55101

Oral statements will be received during regular business hours over the telephone at (612) 296-5085 and in person at the above address.

All statements of information and comments will be accepted until March 3, 1986. Any written material received will become part of the record in the event the rules are promulgated.

Joseph Samargia
Commissioner of Jobs and Training

Pollution Control Agency Division of Water Quality

Approval of Amendments to the Metropolitan Council's 208 Plan (Part 1) and Recommendation for Certification by the Governor

On January 28, 1986, pursuant to Section 208(a)(4) and 40 CFR Part 35, the Minnesota Pollution Control Agency (MPCA) approved amendments to the Metropolitan Council's 208 Water Resources Management Development Guide/Policy Plan, Part 1,

and recommended it to the Governor for certification, as conditioned. It is expected that the Governor will certify the Plan and forward it to the U.S. Environmental Protection Agency (EPA) by February 21, 1986.

Copies of the Metropolitan Council's 208 Water Resources Management Plan are on file at the MPCA (contact Randy D. Burnyeat, (612) 296-7765) and the Metropolitan Council (contact Marcel Jouseau, (612) 291-6402).

February 6, 1986

Thomas J. Kalitowski
Executive Director

Pollution Control Agency

Permanent List of Priorities Among Releases or Threatened Releases of Hazardous Substances, Pollutants or Contaminants

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (MPCA) is publishing for public comment a proposed update of the Permanent List of Priorities among releases or threatened releases of hazardous substances, pollutants or contaminants for which the MPCA may take removal or remedial actions. The statutory basis for and an explanation of the MPCA's Permanent List of Priorities (PLP) are discussed below.

Pursuant to the Environmental Response and Liability Act (ERLA), Minn. Stat. Section 115B.17 (1984), the MPCA is authorized to take any removal or remedial action which the MPCA deems necessary to protect the public health or welfare or environment whenever there is a release, or substantial threat of release, from a facility of any pollutant or contaminant which presents an imminent and substantial danger to the public health, welfare or environment or whenever a hazardous substance is released or there is a threatened release of a hazardous substance from a facility.

Minn. Stat. Section 115B.17, Subd. 13 (1984) requires the MPCA to establish priority rules among releases or threatened releases of hazardous substances, pollutants or contaminants. The priority rules, Minn. Rules Chapter 7044, became effective on July 10, 1984.

Minn. Stat. Section 115B.17, Subd. 13 (1984) also requires the MPCA to adopt a permanent priority list and to modify the list from time to time according to the criteria set forth in the priority rules. Before any list is established, it must be published in the *State Register* to allow for a 30-day public comment period. This notice is therefore published to inform the public that major changes in the proposed April, 1986 Update of the PLP from the November, 1985 PLP include additions to the list and that the MPCA is soliciting public comments only on the proposed additions.

The proposed modifications to the PLP is hereinafter referred to as the "proposed April 1986 Update of the PLP." The proposed April 1986 Update of the PLP was developed according to the process set forth in Minn. Rules Part 7044.0400 (1985). Each site listed has been ranked using the modified Hazard Ranking System (HRS) method, as required by Minn. Rules Part 7044.1000 (1985). Each site has also passed the prescreening test of Minn. Rules Part 7044.1200 (1985) for eligibility.

The numerical scores generated by the HRS scoring process should not be interpreted as exact number priorities. The scores shown indicate the relative ranking and general classification of sites, but sites with scores within approximately ten points of each other may be considered roughly equivalent in terms of a known or possible public health or environmental threat.

Generally, the cleanup of a hazardous waste site involves a three-phase program:

- 1) Remedial Investigation/Feasibility Study—investigation of the extent, magnitude and nature of the release or threatened release, and identification and selection of the most cost-effective removal or remedial action(s), and
- 2) Remedial Design—detailed design of the selected cost-effective removal or remedial action(s), and
- 3) Response Action—implementation of removal or remedial action(s).

All sites listed on the proposed April 1986 Update of the PLP have been assigned to one or more response action classes as required by Minn. Rules Part 7044.0300. (The terms response action, removal action, and remedial action are defined in Minn. Stat. § 115B.02). The proposed April 1986 Update of the PLP is presented by response action class. Each of the four response action classes is defined as follows:

CLASS A—Declared emergencies. This class includes the sites at which an emergency has been declared by the MPCA Director pursuant to ERLA. According to Minn. Rules Part 7044.0200, an "emergency" means that there is an imminent risk of fire or explosion, that a temporary water supply is needed where an advisory has been issued, or that immediate adverse human health effects may be anticipated due to direct contact or inhalation, and an advisory has been issued. An "advisory" means a warning by the MPCA Director, Minnesota Department of Health, Minnesota Department of Natural Resources, or the Minnesota Department of Agriculture issued to the public concerning a hazardous substance, or pollutant or contaminant at or near a site.

OFFICIAL NOTICES

CLASS B—Operation and maintenance/long-term monitoring of completed response actions. This class includes the sites where response actions have been completed and long-term monitoring of these completed response actions is in progress. This class also includes the sites where activities are necessary to operate and maintain sites that have previously undergone response actions. Examples include continuing operation of a ground water pump-out system at a site, long-term monitoring, and work necessary to maintain the integrity of the site, such as maintaining cover or closure at a site.

CLASS C—Response actions necessary or in progress or first year operation and maintenance at a site. This class includes all sites where remedial design and implementation of response actions (other than Class A or B) such as barrel removals, soil decontamination, first year ground water pump-out or monitoring are necessary to effect a permanent remedy or cleanup of the sites.

CLASS D—Remedial investigations and feasibility studies (RI/FS) necessary or in progress. This class includes all sites which require investigation of the extent, magnitude and nature of the release or threatened release (RI) and analysis of alternatives and selection of the most cost-effective response action(s) (FS).

All sites in the four classes are presented in order of their modified HRS Score. Sites that are listed or proposed for listing on the National Priority List (NPL) are so indicated. Consent orders or stipulation agreements are noted if such agreements have been executed between the MPCA and the responsible party(ies).

Additions to the proposed April 1986 Update of the PLP (in order of modified HRS Score) include the following twenty-three sites: Faribault Coal Gasification Plant Site; Ashland, St. Paul Park Site; Kandiyohi County Sanitary Landfill; Electric Machinery; Sibley County Sanitary Landfill; Burnsville Sanitary Landfill; Chisago-Isanti County Sanitary Landfill; Pickett Sanitary Landfill; Woodlake Sanitary Landfill; Koochiching County Sanitary Landfill; Pipestone Sanitary Landfill; Gofer Sanitary Landfill; Dodge County Sanitary Landfill; Elk River Sanitary Landfill; Ponderosa Sanitary Landfill; HWK Enterprises, Meeker Manufacturing, Design Classics, Litchfield Municipal Well Site; McGuire Wire Salvage Site; East Mesaba Sanitary Landfill; Isanti-Rumpel; Karlstad Sanitary Landfill; Fritz Craig Salvage Operation; Isanti-Martin; Minneapolis Community Development Agency.

The Permanent List of Priorities will be updated annually, as required by Minn. Rules Part 7044.0600, according to the criteria set forth in Minn. Rules Chapter 7044. Notice of any future updates of the Permanent List of Priorities will be published in the *State Register* for the purpose of soliciting public comments.

Based upon the above considerations, the proposed April 1986 Update of the PLP is offered for public comment. Sources of funds for removal or remedial actions at the sites listed include federal superfund (CERCLA), State superfund (ERLA), a combination of both federal and state monies, and funding by the responsible parties, if any exist.

Additional information regarding specific sites on the proposed April 1986 Update of the PLP may be obtained by contacting the Public Information Office, MPCA, 1935 West County Road B2, Roseville, Minnesota 55113, (612) 296-7373.

The MPCA invites members of the public to submit written comments on the proposed April 1986 Update of the PLP. To be considered all comments must be received by Thomas A. Sinn, Minnesota Pollution Control Agency, Division of Solid and Hazardous Waste, 1935 West County Road B2, Roseville, Minnesota 55113, no later than 4:30 p.m., March 19, 1986.

All written comments submitted by March 19, 1986, will be considered by the MPCA in the establishment of the April 1986 Update of the PLP.

Environmental Response and Liability Act Permanent List of Priorities April, 1986

CLASS A SITES Declared Emergencies

<u>Site</u>	<u>Score</u>	<u>NPL</u>	<u>Comments</u>
Waite Park Ground Water Contamination	32	P	ERLA funded
Atwater Municipal Well Field	31		ERLA funded
Spring Grove Municipal Well Field	28		ERLA funded
Askov Ground Water Contamination	18		ERLA funded

CLASS B SITES Operation and Maintenance/Long Term Monitoring of Completed Response Actions

<u>Site</u>	<u>Score</u>	<u>NPL</u>	<u>Comments</u>
Boise Cascade/Medtronic, Fridley	59	X	Consent Order 1/25/84
Oakdale Dump	59	X	Consent Order 7/26/83
PCI, Inc., Shakopee	52		Stipulation Agreement 6/25-85

<u>Site</u>	<u>Score</u>	<u>NPL</u>	<u>Comments</u>
Whittaker Corporation	40	X	Request for Response Action 4/23/85
Perham Arsenic Site, Otter Tail County	38	X	ERLA funded
Hastings Dump	31		
Boise Cascade Paint Waste Dump, Ranier	17		Consent Order 6/25/85
Hutchinson Technology, Inc., Hutchinson	9		Cleanup Completed 9/24/84
3M Kerrick Disposal Site, Kerrick	9		Consent Order 1/24/84
DRN-Nett Lake/Orr Pesticide Site	9		Cleanup Completed 11/30/84

CLASS C SITES

Response Actions Necessary or in Progress
First Year Operation and Maintenance

<u>Site</u>	<u>Score</u>	<u>NPL</u>	<u>Comments</u>
FMC Corp., Fridley	66	X	Consent Order 6/8/83
U.S. Naval Industrial Reserve Ordnance Plant (Navy), Fridley	63	P	Request for Response Action 5/22/84
Boise Cascade/Onan, Fridley	59	X	Court Order 12/28/84
Twin Cities Army Ammunition Plant/New Brighton/Arden Hills	59	X	Amended Request for Response Action 2/26/85
Reilly Tar, St. Louis Park	59	X	CERCLA funded
Koppers Coke, St. Paul	55	X	
St. Regis Paper, Cass Lake	53	X	Consent Order 2/26/85
Pine Bend/Crosby American Landfill, Inver Grove Heights	52	P	Consent Order 4/23/85
Anoka Municipal Sanitary Landfill, Ramsey	51		Consent Order 5/30/85
Waste Disposal Engineering, Andover	51	X	Consent Order 3/20/84
MacGillis & Gibbs, New Brighton	48	X	
Bell Lumber & Pole, New Brighton	48	X	Consent Order 5/30/85
Burlington Northern, Brainerd	47	X	Consent Order 4/4/85
Ashland Oil, Cottage Grove	46		
Faribault Coal Gasification Plant, Faribault	46		
Freeway Sanitary Landfill, Burnsville	46	P	
University of Minnesota, Rosemount Research Center	46	P	Response Action Agreement 5/30/85
Ashland, St. Paul Park Site	45		
St. Augusta Sanitary Landfill/St. Cloud Dump, Stearns County	45	P	
Joslyn Mfg. & Supply Co., Brooklyn Center	44	X	Consent Order 5/30/85
Oak Grove Sanitary Landfill, Anoka County	43	P	
Union Scrap, Minneapolis	43	X	
Kummer Sanitary Landfill, Beltrami County	42	P	CERCLA funded
LeHillier/Mankato	42	X	ERLA funded remedial design
Washington County Landfill, Lake Elmo	42	X	Consent Order 10/23/84
Kandiyohi County Sanitary Landfill	41		
Shafer Metal Recycling, Minneapolis	41		
Arrowhead Refinery Co., Hermantown	40	X	
Dakhue Sanitary Landfill, Dakota County	40		
Flying Cloud Sanitary Landfill, Eden Prairie	40		Consent Order 9/24/85
NL Industries/Taracorp/Golden Auto, St. Louis Park	40	X	Consent Order 2/26/85
General Mills, Minneapolis	39	X	Consent Order 10/23/84
Electric Machinery, St. Cloud	38		
Nutting Truck & Caster Co., Faribault	38	X	
Sibley County Sanitary Landfill, Gaylord	38		
Burnsville Sanitary Landfill	37		
Tonka Main Plant, Mound	36		
Jackson Municipal Well Field	35	P	
South Andover, Andover	35	X	
Adrian Municipal Well Field	34	P	

OFFICIAL NOTICES

<u>Site</u>	<u>Score</u>	<u>NPL</u>	<u>Comments</u>
Advance Transformer/Ironwood Sanitary Landfill, Spring Valley	34		
Ashland Oil, Cottage Grove	34		
Battle Lake Area Sanitary Landfill, Otter Tail	34		
Chisago-Isanti County Sanitary Landfill	34		
La Grand Sanitary Landfill, Douglas County	34	P	Stipulation Agreement 4/26/83
Maple Plain Dump	34		
Olmsted County Sanitary Landfill	34	P	
Pickett Sanitary Landfill, Hubbard County	34		
Winona County Sanitary Landfill	34	P	
Woodlake Sanitary Landfill, Hennepin County	34		
3M Chemolite Cottage Grove	33		Consent Order 5/28/85
Long Prairie Ground Water Contamination	32	P	
St. Louis River/Interlake, Duluth	32	X	
St. Louis River/U.S. Steel, Duluth	32	X	Consent Order 3/26/85
Waite Park Ground Water Contamination	32	P	
Agate Lake Scrapyard, Brainerd	31	P	
Atwater Municipal Well Field	31		
East Bethel Demolition Landfill, East Bethel	31	P	
Honeywell, Inc., Golden Valley	31		
Koch Refining/N-ReN	31	P	
Kurt Mfg., Fridley	31	P	Consent Order 8/28/84
Isanti Solvent Site, Isanti County	30		
Louisville Sanitary Landfill, Jordan	29		
Western Lake Superior District Landfill/Duluth Dump, St. Louis County	29		
Spring Grove Municipal Well Field	28		
Koochiching County Sanitary Landfill	27		
Pipestone County Sanitary Landfill	27		
Ritari Post and Pole Company, Wadena County	27		
Electronic Industries, Inc., New Hope	26		Stipulation Agreement 1/24/84
Gofer Sanitary Landfill, Martin County	26		
Dodge County Sanitary Landfill	25		
Elk River Sanitary Landfill	25		
Houston County Sanitary Landfill	25		
Ponderosa Sanitary Landfill, Blue Earth County	25		
Wadena Arsenic Site, Wadena County	25		ERLA funded
Weisman Scrap, Winona	25		
HWK Enterprises, Meeker Mfg. Design Classics, Litchfield Municipal Well Site, Litchfield	24		
Ashland Oil, Pine County	22		Request for Response Action 12/18/84
Sonford Products, St. Paul Park	22		
Wabasha County Sanitary Landfill	22		
McGuire Wire Salvage Site, Mora	20		
Askov Ground Water Contamination	18		
Clay County Sanitary Landfill	17		
Hopkins Sanitary Landfill	15		
Meeker County Sanitary Landfill	15		
Crow Wing County Sanitary Landfill	14		
East Mesaba Sanitary Landfill, St. Louis County	14		
Isanti-Rumpel, Isanti County	13		
Waseca County Sanitary Landfill	13		
DNR—Duxbury Pesticide Site, Duxbury	11		
Duluth Missabe & Iron Range Railway, Proctor	11		
West Duluth Industrial Site	11		
Duluth Air Force Base	10		

<u>Site</u>	<u>Score</u>	<u>NPL</u>	<u>Comments</u>
Greater Morrison Sanitary Landfill, Morrison County	10		
Karlstad Sanitary Landfill, Kittson County	10		
Northwest Refinery, New Brighton	9		
Tonka/Woyke Site, Annandale	9		Request for Response Action 5/30/85
Ford Twin Cities Assembly Plant, St. Paul	8		
Fritz Craig Salvage Operation, Park Rapids	8		
White Bear Lake Township Dump, Ramsey County	7		
Minnegasco, Minneapolis	6		
Superior Plating, Minneapolis	6		
McLaughlin Gormley King, Minneapolis	4		
Airco Lime Sludge Pit, Minneapolis	3		
Ecolotech Inc., St. Paul	3		Consent Order 3/27/84
43 E. Water St., St. Paul	3		
Hopkins Ag. Chem./Allied Chem., Minneapolis	3		
Isanti-Martin, Isanti County	3		
Ecolotech Inc., Minneapolis	2		Consent Order 3/27/84
Metals Reduction, St. Paul	2		
Former McKay Mfg. Company, St. Paul	2		
Polymetal Products, Inc., St. Paul	2		
Minneapolis Community Development Agency, Minneapolis	1		Consent Order 11/26/85

CLASS D SITES

Remedial Investigations/Feasibility Studies Necessary or in Progress

<u>Site</u>	<u>Score</u>	<u>NPL</u>	<u>Comments</u>
U.S. Naval Industrial Reserve Ordnance Plant (Navy), Fridley	63	P	Request for Response Action 5/22/84
Twin Cities Army Ammunition Plant/New Brighton/Arden Hills	59	X	Amended Request for Response Action 2/26/85
Reilly Tar, St. Louis Park	59	X	CERCLA funded
Koppers Coke, St. Paul	55	X	
St. Regis Paper, Cass Lake	53	X	Consent Order 2/26/85
Pine Bend/Crosby American Landfill, Inver Grove Heights	52	P	Consent Order 4/23/85
Anoka Municipal Sanitary Landfill, Ramsey	51		Consent Order 5/30/85
Waste Disposal Engineering, Andover	51	X	Consent Order 3/20/84
MacGillis & Gibbs, New Brighton	48	X	ERLA funded
Bell Lumber & Pole, New Brighton	48	X	Consent Order 5/30/85
Burlington Northern, Brainerd	47	X	Consent Order 4/4/85
Ashland Oil, Cottage Grove	46		
Faribault Coal Gasification Plant Site, Faribault	46		
Freeway Sanitary Landfill, Burnsville	46	P	
University of Minnesota, Rosemount Research Center Ashland, St. Paul Park Site	46	P	Response Action Agreement 5/30/85
St. Augusta Sanitary Landfill/St. Cloud Dump, Stearns County	45	P	
Joslyn Mfg., and Supply Co., Brooklyn Center	44	X	Consent Order 5/30/85
Oak Grove Sanitary Landfill, Anoka County	43	P	CERCLA funded
Union Scrap, Minneapolis	43	X	
Kummer Sanitary Landfill, Beltrami County	42	P	CERCLA funded
Kandiyohi County Sanitary Landfill	41		
Shafer Metal Recycling, Minneapolis	41		
Arrowhead Refinery Co., Hermantown	40	X	CERCLA funded
Dakhue Sanitary Landfill, Dakota County	40		
Flying Cloud Sanitary Landfill, Eden Prairie	40		Consent Order 9/24/85
NL Industries/Taracorp/Golden Auto, St. Louis Park	40	X	Consent Order 2/26/85
Electric Machinery, St. Cloud	38		
Nutting Truck and Caster Co., Faribault	38	X	Consent Order 4/26/84

OFFICIAL NOTICES

<u>Site</u>	<u>Score</u>	<u>NPL</u>	<u>Comments</u>
Sibley County Sanitary Landfill	38		
Windom Dump	38	P	
Burnsville Sanitary Landfill	37		
Tonka Main Plant, Mound	36		
Jackson Municipal Well Field	35	P	
South Andover, Andover	35	X	CERCLA funded
Adrian Municipal Well Field	34	P	CERCLA funded
Advance Transformer/Ironwood Sanitary Landfill, Spring Valley	34		
Ashland Oil, Cottage Grove	34		
Battle Lake Area Sanitary Landfill, Otter Tail County	34		
Chisago-Isanti County Sanitary Landfill	34		
La Grand Sanitary Landfill, Douglas County	34	P	Stipulation Agreement 4/26/83
Maple Plain Dump	34		
Olmsted County Sanitary Landfill	34	P	
Pickett Sanitary Landfill, Hubbard County	34		
Winona County Sanitary Landfill	34	P	
Woodlake Sanitary Landfill, Hennepin County	34		
3M Chemolite, Cottage Grove	33		Consent Order 5/28/85
Long Prairie Ground Water Contamination	32	P	CERCLA funded
St. Louis River/Interlake, Duluth	32	X	CERCLA funded
St. Louis River/U.S. Steel, Duluth	32	X	Consent Order 3/26/85
Waite Park Ground Water Contamination	32	P	ERLA funded
Agate Lake Scrapyard, Brainerd	31	P	CERCLA funded
Atwater Municipal Well Field	31		ERLA funded
East Bethel Demolition Landfill, East Bethel	31	P	
Koch Refining/N-Ren	31	P	Consent Order 10/22/85
Kurt Mfg., Fridley	31	P	Consent Order 8/28/84
Isanti Solvent Site, Isanti County	30		ERLA funded limited remedial investigation and focused feasibility study
Louisville Sanitary Landfill, Jordan	29		
Western Lake Superior Sanitary District Landfill/Duluth Dump, St. Louis County	29		
Spring Grove Municipal Well Field	28		
Koochiching County Sanitary Landfill	27		
Pipestone County Sanitary Landfill	27		
Ritari Post and Pole Company, Wadena County	27		
Electronic Industries, Inc., New Hope	26		Stipulation Agreement 1/24/84
Gofer Sanitary Landfill, Martin County	26		
Dodge County Sanitary Landfill	25		
Elk River Sanitary Landfill	25		
Houston County Sanitary Landfill	25		
Ponderosa Sanitary Landfill, Blue Earth County	25		
Weisman Scrap, Winona	25		
HWK Enterprises, Meeker Mfg., Design Classics, Litchfield Municipal Well Site, Litchfield	24		
Ashland Oil, Pine County	22		Request for Response Action 12/18/84
Sonford Products, St. Paul Park	22		
Wabasha County Sanitary Landfill	22		
McGuire Wire Salvage Site, Mora	20		
Askov Ground Water Contamination	18		ERLA funded
Clay County Sanitary Landfill	17		
Hopkins Sanitary Landfill	15		
Meeker County Sanitary Landfill	15		
Crow Wing County Sanitary Landfill	14		
East Mesaba Sanitary Landfill, St. Louis County	14		

<u>Site</u>	<u>Score</u>	<u>NPL</u>	<u>Comments</u>
Isanti-Rumpel, Isanti County	13		
Waseca County Sanitary Landfill	13		
Duluth Missabe & Iron Range Railway, Proctor	11		
West Duluth Industrial Site	11		
Duluth Air Force Base	10		
Greater Morrison Sanitary Landfill, Morrison County	10		
Karlstad Sanitary Landfill, Kittson County	10		
Northwest Refinery, New Brighton	9		
Tonka/Woyke Site, Annandale	9		Request for Response Action 5/30/85
Ford Twin Cities Assembly Plant, St. Paul	8		
Fritz Craig Salvage Operation, Park Rapids	8		
White Bear Lake Township Dump, Ramsey County	7		
Minnegasco, Minneapolis	6		
Superior Plating, Minneapolis	6		
McLaughlin Gormley King, Minneapolis	4		
Hopkins Ag. Chem./Allied Chem., Minneapolis	3		
Isanti-Martin, Isanti County	3		
Metals Reduction, St. Paul	2		
Minneapolis Community Development Agency/Minneapolis	1		Consent Order 11/26/85

Notes:

Score - Hazard Ranking System (HRS) score.

NPL - National Priority List. X = Currently listed on NPL. P = Proposed for listing on NPL; score shown is subject to EPA audit.

Comments:

If a Consent Order, Request for Response Action or Stipulation Agreement is indicated, a Responsible Party is undertaking the necessary response actions pursuant to an enforceable document.

If CERCLA or ERLA funding are indicated, the MPCA is using federal or State superfunds, respectively, to finance the necessary response actions being conducted by an MPCA contractor.

Public Utilities Commission

Outside Opinion Sought Regarding a Draft of Rules Governing Practice and Procedures for Ex Parte Communications

Notice is hereby given that the Minnesota Public Utilities Commission (the Commission) is seeking information or opinions from sources outside the agency in preparing to promulgate new rules governing practice and procedures for ex parte communications between interested persons and decision-making personnel of the Commission. These rules will be promulgated under the authority of Minnesota Statutes § 14.06 (1984) which authorizes the Commission to adopt rules setting forth the procedures which affect the public and Minnesota Statutes § 216B.08 (1984) and § 237.10 (1984) which authorize the Commission to make rules to carry out its regulation of gas and electric utilities and telephone companies, respectively.

The Commission has prepared a draft of rules concerning practices and procedures for ex parte communications. The Commission desires comments on this draft as well as on alternatives that might also address the matters being considered. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to:

Mary Ellen Hennen, Executive Secretary
 Minnesota Public Utilities Commission
 780 American Center Building
 160 East Kellogg Boulevard
 St. Paul, MN 55101

Oral statements will be received during regular business hours over the telephone by Richard Levine at (612) 296-6902 and in person at the above address.

All statements of information and comment shall be accepted until March 17, 1986. Any written material received by the Commission shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rule is adopted.

Public Utilities Commission

Draft of Rules Governing Practice and Procedures for Ex Parte Communications

[All new material]

7830.7000 DEFINITIONS.

A. **Ex parte contact.** An "ex parte contact" is any communication, oral or written, made to decision-making personnel, where the decision is to be made on the record, that is not part of the record and for which prior notice is not given to all parties.

B. **Decision-making personnel.** "Decision-making personnel" are all members of the Commission, its Executive Secretary, and members of its technical staff and consultants who are assigned to the proceeding.

C. **Interested person.** "Interested person" is any person having a direct or indirect interest or economic stake in the outcome of a proceeding, including the following:

1. Parties, and their attorneys, agents or representatives, to the proceeding;
2. Any other person, and their attorneys, agents, or representatives, who might be benefited, aggrieved, or adversely affected by the outcome of the proceeding.

7830.7100 EX PARTE CONTACTS PROHIBITED.

A. Except as allowed in subp. .7200, no interested person shall, either directly or indirectly, make or attempt to make any ex parte presentation to commission decision-making personnel.

B. No decision-making person shall request, entertain, or consider a prohibited ex parte communication.

7830.7200 PERMISSIBLE EX PARTE COMMUNICATIONS.

The following ex parte communications are allowed under this rule:

- A. Communications authorized by statute. In particular, this includes:
 1. Communications concerning interim rates between the commission staff and a public utility or telephone company;
 2. Communications in rule making proceedings, except between the time that the commission gives notice on its open meeting calendar for deliberation and the issuance of its order adopting the rule;
- B. Communications between the commission staff and a public utility or telephone company necessary to implement notices, compliance tariffs, or refund plans;
- C. Requests by the commission staff for further evidence to be placed in the record;
- D. Communications expressing general concerns common to the public at large from persons who are not parties.
- E. Meetings for the purpose of discussing settlements or other resolution of the case that are held between the commission staff and all parties to a proceeding that are noticed and open to the public;
- F. Communications concerning matters before the customer service unit, unless the matter is set for a contested case hearing;
- G. Any request for information solely regarding the status of or appropriate procedures for a proceeding;
- H. Communications related to field audits of the accounts, books, records and conservation materials of a public utility or telephone company or to construction and operational inspections of operating plant;
- I. Communications related to matters pending before the state and federal courts and agencies of the federal government.

7830.7300 PROCEDURES FOR PERMISSIBLE EX PARTE CONTACTS.

A. A copy of any permissible written ex parte presentation shall be placed in the commission's public file by the decision-making person receiving the communication.

B. A decision-making person who receives or makes a permissible oral ex parte presentation shall insure that any significant data or arguments presented there are reflected in the public file by placing a written memorandum of the communication in the commission's public record within forty-eight hours of the presentation. Where the proceeding has been assigned to an administrative law judge, a copy of the memorandum shall be sent to him or her.

7830.7400 PROCEDURES FOR HANDLING UNAVOIDABLE PROHIBITED EX PARTE CONTACTS.

A. To the extent possible, unauthorized written ex parte communications will be forwarded to the executive secretary without being read. A decision-making person who receives and reads an unauthorized written ex parte communication shall forward the communication with a statement describing the circumstances to the executive secretary.

B. If an unauthorized oral ex parte presentation is made to a decision-making person, he or she shall advise the person making the presentation that it is prohibited and terminate the discussion of such matters. If an unauthorized ex parte presentation in fact occurs, the decision-making person receiving the presentation shall forward to the executive secretary within forty eight hours a statement containing as much of the following information as is known to him or her:

1. Name and docket number of the proceeding.
2. Name and address of the person making the presentation and his or her relationship (if any) to the parties to the proceeding;
3. The date and time of the presentation, its duration, and the means and circumstances under which it was made;
4. A summary of the matters discussed;
5. Whether the person making the presentation persisted in doing so after having been advised that the presentation is prohibited;
6. Date and sign the statement.

C. The executive secretary shall place the material or statement in a public file but shall not make the statement part of the record of the proceeding. The executive secretary shall serve a copy of the material or statement on all parties to the proceeding. If the material is voluminous, it shall be sufficient to serve notice that the material is available for public inspection at the commission's offices.

7830.7500 SANCTIONS.

A. Upon notice and hearing, including a contested case hearing when material facts are disputed, any party who makes any unauthorized ex parte presentation, who encourages or solicits others to make any such presentation, or who fails to advise the executive secretary of the facts and circumstances concerning such presentation may be disqualified from the affected proceeding.

B. A proceeding may be dismissed under paragraph A when the applicant, petitioner, or complainant is shown to be responsible for the violation of this rule and either:

1. The ex parte presentation has materially prejudiced the decision-making process; or
2. A repeated pattern of ex parte presentations in the current proceeding and other proceedings evidences disregard for this rule.

C. Appropriate lesser sanctions may be imposed upon a person who violates this rule when circumstances do not justify disqualification or dismissal.

7830.7600 VIOLATIONS BY COMMISSION PERSONNEL.

A. Intentional violation of this rule by commissioners or staff may be grounds for removal from office for cause or for other disciplinary action provided for by law.

B. Decision-making personnel who intentionally violate this rule shall not participate in, offer advice upon, or vote in the commission's decision-making process in the proceeding. The executive secretary shall reassign staff to assist the commission as is necessary under this subpart.

Public Utilities Commission

Outside Opinion Sought Regarding a Draft of a Rule Governing Ethical Practices of Regulated Companies

Notice is hereby given that the Minnesota Public Utilities Commission (the Commission) is seeking information or opinions from sources outside the agency in preparing to promulgate new rules governing ethical practices of regulated companies. These rules will be promulgated under the authority of Minnesota Statutes § 14.06 (1984) which authorizes the Commission to adopt rules setting forth the procedures which affect the public and Minnesota Statutes § 216B.08 (1984) and § 237.10 (1984) which authorize the Commission to make rules to carry out its regulation of gas and electric utilities and telephone companies, respectively.

The Commission has prepared a draft of a rule concerning ethical practices of regulated companies. The Commission desires

OFFICIAL NOTICES

comments on this draft as well as on alternatives that might also address the matters being considered. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to:

Mary Ellen Hennen, Executive Secretary
Minnesota Public Utilities Commission
780 American Center Building
160 East Kellogg Boulevard
St. Paul, MN 55101

Oral statements will be received during regular business hours over the telephone by Richard Levine at (612) 296-6902 and in person at the above address.

All statements of information and opinions shall be accepted until March 17, 1986. Any written material received by the Commission shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rule is adopted.

Public Utilities Commission

Draft of a Rule Governing Ethical Practices of Regulated Companies

[All new material]

7830.8000 GIFTS BY PUBLIC UTILITIES OR TELEPHONE COMPANIES PROHIBITED.

Whenever a public utility or a telephone company or an affiliate or a representative of such public utility or telephone company offers, provides or grants to a commissioner or staff person any compensation, gift, gratuity, favor, entertainment, meal, beverage, loan, or any other thing of monetary value, the commission may dismiss or deny any application or proceeding of the public utility or telephone company pending before it at that time or that is affected by the offer, provision, or grant.

State Retirement System

Board of Directors Regular Meeting

A meeting of the Board of Directors, Minnesota State Retirement System, will be held on Friday, February 21, 1986 at 8:30 a.m. in the office of the System, 529 Jackson Street, St. Paul, Minnesota.

Teachers Retirement Association

Meeting Notice

The Board of Trustees, Minnesota Teachers Retirement Association will hold a Meeting on Friday, March 7, 1986, at 9 a.m. in Room 302, Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota to consider matters which may properly come before the Board.

STATE CONTRACTS

Pursuant to the provisions of Minn. Stat. § 16.098, subd. 3, an agency must make reasonable effort to publicize the availability of any consultant services contract or professional and technical services contract which has an estimated cost of over \$2,000.

Department of Administration procedures require that notice of any consultant services contract or professional and technical services contract which has an estimated cost of over \$10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and completed contract proposal. Certain quasi-state agencies are exempted from some of the provisions of this statute.

Commodities contracts with an estimated value of \$5,000 or more are listed under the Procurement Division, Department of Administration. All bids are open for 7-10 days before bidding deadline. For bid specifics, time lines, and other general information, contact the appropriate buyers by calling 296-6152. If the appropriate buyer is not available, contact Harvey Leach or Barbara Jolly at 296-3779.

Department of Administration Procurement Division

Commodities Contracts and Requisitions Currently Open for Bidding

Requisition #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount
26-073-18535	Scientific Equipment	St. Cloud State University	St. Cloud	Contact buyer
79-000-52030	Scientific Equipment	Transportation	St. Paul	Contact buyer
26-072-09619	Hollow Metal Doors	Moorhead State University	Moorhead	Contact buyer
26-074-10739	Audio-Video Equipment	Winona State University	Winona	Contact buyer
79-990-00355	Power Package	Transportation— Central Shop	St. Paul	Contact buyer
55-000-93649	Lease/Purchase of Office Automation System	Human Services	St. Paul	Contact buyer
79-900-RM	Ready Mix	Transportation	North St. Paul	Contact buyer
79-450-RM	Ready Mix Concrete	Transportation	Morris	Contact buyer
26-072-09635	Steam Coils	Moorhead State University	Moorhead	Contact buyer
79-382-01042 etc.	Air Compressors	Transportation	Various locations	Contact buyer
79-000-52089-5879	Transportation	St. Paul	Contact buyer	Contact buyer
Furnish & install Donn Severn Access Floor Systems				
02-511-47354-5879	Employee Biweekly Time Report	Administration— Central Stores	St. Paul	Contact buyer
55-000-93737-6009	State of MN Application Information	Human Services	St. Paul	Contact buyer
26-137-03518	Purchase of CRT Terminals	Winona State University	Winona	Contact buyer
79-000-51951	Modular Office System &	Transportation	Morris	Contact buyer
79-000-51957	Accessories			
79-900-00361	Furnish & Install Horizontal & Vertical Blinds	Transportation	St. Paul	Contact buyer
Sch. 152 Alum	Alum. Sign Bolts, Nuts & Washers	Transportation	Various	Contact buyer
79-100-03195	Diamond Concrete Blades	Transportation	Various	Contact buyer
79-000-51942	Fuel Pumps	Transportation	Various locations	Contact buyer
26-073-18510	Scientific Equipment	St. Cloud State University	St. Cloud	Contact buyer
79-000-52004	Scientific Equipment	Transportation	Detroit Lakes	Contact buyer
01-000-04520	Service Maintenance Contract for Pneumatic Temperature Controls	Military Affairs	St. Paul	Contact buyer

STATE CONTRACTS

Requisition #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount
78-382-01011	Drilling Machine—Truck Mounted	Transportation	St. Paul	Contact buyer
79-750 B	Plant Mix Bituminous	Transportation	Windom	Contact buyer
79-382-01024	Power Broom	Transportation	Golden Valley	Contact buyer
07-700-37677	Steel for License Plates (size 12½")	MN Correctional Facilities—Industries	St. Cloud	Contact buyer
00-000-00000	Cafeteria Equipment	Transportation	St. Paul	Contact buyer
55-100-03513	Elevator Repair	Human Services—Anoka—Metro Regional Treatment Center	Anoka	Contact buyer
27-153-45494	Elevator Maintenance	North Hennepin Community College	Minneapolis	Contact buyer
Contract				
29-002-11904	Seed	Natural Resources	Grand Rapids	Contact buyer
29-000-43184	Scientific Equipment	Natural Resources—Minerals	Hibbing	Contact buyer
21-607-32390	Van	Jobs & Training—Vocational Rehabilitation Division	Bloomington	Contact buyer
78-500-15496	Video Equipment	MN Correctional Facility	Sauk Centre	Contact buyer
Contract	Printed Double Window Envelopes	Human Services	St. Paul	\$60,000-65,000
27-138-48703-5795	NDSL Billing Form	Minneapolis Community College	Minneapolis	Contact buyer
26-074-10674	Scientific Equipment	Winona State University	Winona	Contact buyer
26-073-18517	Scientific Equipment	St. Cloud State University	St. Cloud	Contact buyer
12-200-89819	Downhole Camera & Accessories	Health	Minneapolis	Contact buyer
79-100-B	Plant mix bituminous	Transportation	Duluth	Contact buyer
79-100-A	Aggregates	Transportation	Duluth	Contact buyer
79-800-B	Hot Plant Bituminous	Transportation	Willmar	Contact buyer
79-000-51958	Telephone System	Transportation	Morris	Contact buyer
01-000-04534	Telephone System	National Guard Armory	Bloomington	Contact buyer
79-382-01039	Portable Motor	Transportation	St. Paul	Contact buyer
12-400-89623	Scientific Equipment	Health	Minneapolis	Contact buyer
79-382-01061 etc.	Self Propelled Road Brooms	Transportation	Various	Contact buyer

Contact 296-6152 for referral to specific buyers.

Department of Corrections Community Services Division

Requests for Proposals for Services to Battered Women

Notice is hereby given that the Department of Corrections announces the availability of grant funds to provide the following service to battered women:

Grantees will be responsible for the conceptualization, development and production of a slide/tape presentation on the issue of battering specifically for use in each of the primary communities of color: Black, Hispanic, American Indian or Southeast Asian.

This project will be financed out of funds made available by the Minnesota Legislature. A total of up to \$20,000 will be available for a 12 month period, with grants of approximately \$5,000 each being made to produce each of the four slide/tape presentations. Only nonprofit corporations are eligible to apply. Proposals are due no later than March 12, 1986.

Direct inquiries to Maggie Arzdorf-Schubbe, Director, Program for Battered Women, 300 Bigelow Building, 450 North Syndicate Street, St. Paul, MN 55104. Telephone (612) 642-0253.

Department of Corrections Health Care Unit

Request for Proposals for Registered Dietitian Services

Notice is hereby given that the Minnesota Department of Corrections is seeking the following service for the period June 1, 1986, through July 30, 1987. These services are to be performed at the Minnesota Correctional Facilities—Stillwater, Oak Park Heights and Lino Lakes. Maximum contract amount is \$24,000.

Services of a Registered Dietitian approximately 25 hours per week to provide the total consultant dietitian services at the Minnesota Correctional Facilities—Stillwater, Oak Park Heights and Lino Lakes.

Direct inquiries to:

Howard L. Johnson, Health Care Administrator
Minnesota Department of Corrections
612/642-0248
300 Bigelow Building
450 North Syndicate Street
St. Paul, Minnesota 55104

Proposals for the above contract must be submitted no later than March 10, 1986.

Department of Education Systems Effectiveness Division

Request for Proposals for Minicomputer Financial Accounting and Reporting Information Systems

The Executive Division, Elementary, Secondary, Vocational (ESV) Computer Council is seeking minicomputer finance accounting and reporting systems for pilot testing in Minnesota school districts as an alternative to the use of regional mainframe computer systems. This RFP will not result in a state contract, but will be used for the selection of systems for pilot testing. After successful completion of the test, pilot systems may be approved for use in Minnesota School Districts.

The pilot test procedures and the requirements for any system selected for testing are described in detail in the Request for Proposals (RFP) and accompanying appendices.

The formal RFP may be requested and inquiries should be directed to:

Joanne Chabot, Executive Director
ESV Computer Council
Room 849, Capitol Square Building
550 Cedar Street
St. Paul, Minnesota 55101
(612) 297-3152

RFP amendments and written answers to prospective responder questions, if any, will be mailed to all prospective responders on February 28, 1986.

The deadline for submission of completed proposals will be the close of the working day March 24, 1986.

Department of Energy and Economic Development Financial Deal Making Assistance Sought for Small Cities Businesses

The Development Resources Office of the Minnesota Department of Energy and Economic Development (MNDEED) is soliciting applications for Financial Deal Structuring and funding Assistance on behalf of Small Cities. The purpose of this program is to

STATE CONTRACTS

provide, 1. Loan Review assistance and 2. Set Aside funds on behalf of small cities for rural development. The review process for 8-20 loans will begin on or about March 21, 1986. An undetermined amount of staff and workshop training will also be included as work items for the financial assistant. Estimated contract cost is \$20,000.

Applicants should provide their qualifications and a proposed fee schedule. All written applications must be received by 4:00 p.m. March 17, 1986, by MNDEED. Please use the address listed below:

Dick Fursman
900 American Center Bldg.
150 East Kellogg Blvd.
St. Paul, Minnesota 55101
297-1172

Department of Energy and Economic Development

Professional Economic Development Program and Instructor(s) Sought

The Development Resources Office of the Minnesota Department of Energy and Economic Development is soliciting proposals for a Comprehensive Financial Economic Development training program. The program should be designed to cover the four areas of expertise as listed below.

- Economic Development Financing
- Business Credit Analysis
- Real Estate Financing
- Advanced Deal Structuring

Each area should be covered by one week of instruction. The program period will be spread out over a three year period, with the aforementioned subject areas each being covered twice.

In addition, five (5) 1-day seminars will be conducted to train cities on the process of structuring Revolving Loans: to be held between 4/1986 and 3/1988. A three (3) day one time only course for cities on Commercial Revitalization will be held in 1/1987. Estimated contract cost is \$220,000.

Proposals should be received by MNDEED no later than 4:00 p.m. March 17, 1986.

The formal request for proposal may be requested and inquiries should be directed to:

Dick Fursman
900 American Center
150 East Kellogg Blvd.
St. Paul, Minnesota 55101
(612) 297-1172

Department of Natural Resources

Request for Proposals for the Planning of a Milled Peat Production System

The Minnesota Department of Natural Resources is requesting proposals from individuals and organizations capable of planning the construction and operation of milled peat production systems at two sites in northern Minnesota. The work in this project shall be to:

1. Verify that the sites selected by the Department of Natural Resources are adequate for the production of fuel-grade milled peat.
2. Prepare a preliminary development plan which shall include:
 - a) a listing of all equipment necessary for the production and shipment of 50,000 US tons of peat per year, and any additional equipment required to raise productive capacity from 50,000 US tons per year to 300,000 US tons per year in increments of 50,000 tons per year, and
 - b) drawings showing ditch placement, internal roads, buildings, and peat storage areas, with supporting statements as to why these positionings were chosen.
3. Prepare a cost estimate for the harvesting, loading, and delivery of peat to the consumer.

4. Prepare cost estimates for possible peat processing facilities including grinding, drying, and pelletizing equipment.

The work shall be divided into two parts, one for each site to be evaluated. Part 1 shall concentrate on an evaluation of potential sites near Hibbing, Minnesota. Part 2 shall concentrate on an evaluation of potential sites near International Falls, Minnesota.

Respondents to this solicitation should be experienced in the design and implementation of successful peat harvesting operations and should be able to demonstrate their competency by providing the Department with a listing of completed projects. Respondents should also be capable of implementing their recommendations by establishing a milled peat production facility at one or both of these locations.

The Commissioner of Natural Resources shall award this contract after an internal review of the proposals has been conducted by the Department. However, the issuance of this Request for Proposals does not require the Department to award a contract. All proposals must be received no later than 4:30 p.m. CST on March 19, 1986.

Cost range for this solicitation is \$20,000-\$50,000.

All proposals and inquiries should be directed to:

Philip F. Pippo
Minnesota Department of Natural Resources
Division of Minerals
Box 45 500 Lafayette Road
St. Paul, MN 55146
(612) 296-4807

Public Employees Retirement Association Request for Proposals for Actuarial Consultant Services

I. Overview

The Public Employees Retirement Association of Minnesota (PERA) is a multi-employer pension fund serving over 2,200 governmental units within the State of Minnesota as defined in Minnesota Statutes, Chapter 353.

The Public Employees Retirement Association of Minnesota does not have an actuary on its staff and has, therefore, the need to retain the services of a consultant to perform the necessary actuarial services. This Request for Proposal is being issued to comply with Minnesota Statutes, Chapter 16B in order for PERA to enter into a consultant contract.

This Request for Proposals does not obligate the State to complete the project, and the State reserves the right to cancel the solicitation if it is considered to be in its best interest.

II. Scope of Project

To serve as consulting actuary to the Public Employees Retirement Association of Minnesota for a twenty-four (24) month period commencing July 1, 1986, and ending June 30, 1988, giving consultation and advisory services to the management of the association. The funds administered are as follows:

A. The Public Employees Retirement General Fund which consists of:

1. Basic Plan
2. Coordinated Plan; and

B. The Public Employees Retirement Police and Fire Fund

As of June 30, 1985, the association had approximately 7,400 active and inactive Basic members, 81,000 active and inactive Coordinated members, 5,100 active and inactive Police and Fire members, and was paying monthly benefits to approximately 22,000 individuals.

III. Goals and Objectives

The actuarial services are necessary to provide an independent review of the annual actuarial valuations of the PERA funds that are performed by the actuarial firm that is under contract to the Legislative Commission on Pensions and Retirement; the actuarial services are also necessary to provide the association with financial impact estimates of proposed benefit changes, and to provide other statistical data.

IV. Project Tasks

The following tasks are required, but respondents may propose additional tasks or activities if these will materially improve the results of the project. The selected actuary shall:

STATE CONTRACTS

A. Give consultation and advisory services, along with public testimony to committees, boards, commissions, legislators, etc., on any technical policy or administrative problem arising during the course of operation of the system. This would include attending a minimum of four Board of Trustee meetings per year.

B. Prepare actuarial operating tables from time to time as may be required for the operation of the system.

C. Provide timely financial impact estimates of planned amendments as requested by the Executive Director of the Public Employees Retirement Association of Minnesota.

D. Provide an independent review on an annual basis of the actuarial valuations of the PERA funds performed by the actuarial firm under contract to the Legislative Commission on Pensions and Retirement, including the Basic, Coordinated and the Police and Fire plans as constituted on June 30, 1986 and June 30, 1987, in accordance with the provisions of Minnesota Statutes, Chapter 356.

E. Make a determination of reserve requirements and appropriate annuity mortality tables for the retired members of the plans specified and other calculations as required by the law governing the Minnesota Post-Retirement Investment Fund for such members.

F. Review applications for benefits in any special cases and assist in the interpretation of the provisions of the law or proposals mandatory thereof.

G. Make recommendations to the Board of Trustees of the Public Employees Retirement Association of Minnesota from time to time that relate to possible improvements in the underlying plan of operation and/or that give effect to new developments in the field of retirement planning.

H. Prepare necessary reports giving a demographic breakdown of age, service credit, salaries and sex for each plan or fund.

I. Provide data and necessary reports to assist the association with respect to possible independent police and fire relief association fund consolidations with the Public Employees Retirement Association's Police and Fire Fund and with respect to the consequences of such consolidations.

V. Department Contacts

Prospective respondents who have any questions regarding this Request for Proposal may call or write:

James M. Hacking, Executive Director
Public Employees Retirement Association of Minnesota
Suite 200—Skyway Level
514 St. Peter Street
St. Paul, Minnesota 55102
Telephone: (612) 297-3105

Please note: Other association personnel are not allowed to discuss the project with respondents before the submission of proposal deadline.

VI. Submission of Proposals

All proposals must be sent to and received by:

James M. Hacking, Executive Director
Public Employees Retirement Association of Minnesota
Suite 200—Skyway Level
514 St. Peter Street
St. Paul, Minnesota 55102

Not later than 4:30 p.m., April 1, 1986.

Late proposals will not be accepted. Submit five copies of proposal. Proposals are to be sealed in mailing envelopes or packaged with the respondent's name and address clearly written on the outside. Each copy of the proposal must be signed, in ink, by an authorized member of the firm. Prices and terms of the proposal as stated must be valued for the length of the project.

VII. Project Costs

The association has estimated that the cost of this project should not exceed \$100,000.00.

VIII. Project Completion Date

The project shall be completed by June 30, 1988.

IX. Proposal Contents

The following will be considered minimum contents of the proposal:

- A. A restatement of the objectives, goals and tasks to show or demonstrate the respondent's view of the nature of the project.
- B. Identification and description of the products to be provided by the respondent.
- C. An outline of the respondent's background and experience with particular emphasis on public pension fund experience; identification of the personnel who will conduct the project, with detail of their training and work experience. (No change in personnel assigned to the project will be permitted without the approval of the Executive Director of the Public Employees Retirement Association of Minnesota.)
- D. A detailed cost and work plan which will identify the major tasks to be accomplished within delineated time frames for use as a scheduling and managing tool, in addition to serving as the basis for invoicing.
- E. Identification of the organizational level of the firm's department(s), the personnel of which shall participate in the project, and the identification of any other supporting or related services to be provided by the department(s) or other adjunct departments.

X. Evaluation

All proposals received by the deadline will be evaluated by the Board of Trustees of the Public Employees Retirement Association of Minnesota. In some instances, an interview will be part of the evaluation process. Factors upon which proposals will be judged include, but are not limited to, the following:

- A. Expressed understanding of project objective(s).
- B. Project work plan.
- C. Project cost detail.
- D. Qualifications of both firm and personnel. (Experience of project personnel will be given greater weight than that of the firm.)

Evaluation and selection will be completed by May 31, 1986. Results will be sent immediately by mail to all respondents.

XI. Affirmative Action.

It is hereby agreed between the parties that this agency will require affirmative action requirements be met by contractors in relation to Minnesota Statutes, Chapter 363.073 and Minnesota Rules, parts 5000.3400 to 5000.3600. Failure by a contractor to implement an affirmative action plan or make a good faith effort shall result in revocation of its certificate or revocation of the contract (Minnesota Statutes, Chapter 363.073, Subdivisions 2 and 3).

Under the Minnesota Human Rights Act, Section 363.073, businesses or firms which have more than 20 full-time employees in Minnesota at any time during the previous 12 months and bid on or execute a State contract for goods or services in excess of \$50,000, must have a Certificate of Compliance issued by the Commissioner of the Department of Human Rights. This certificate is valid for two years. For further information contact the Department of Human Rights, 500 Bremer Tower, St. Paul, Minnesota 55101, (612) 296-5663.

Disabled Individual Clause

A. The contractor shall not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled individuals without discrimination based upon their physical or mental disability in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

B. The contractor agrees to comply with the rules and relevant order of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.

C. In the event of the contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with Minnesota Statutes, Chapter 363.073 and the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.

D. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Commissioner of the Minnesota Department of Human Rights. Such notices shall state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled employees and applicants for employment, and the rights of applicants and employees.

STATE CONTRACTS

E. The contractor shall notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of Minnesota Statutes, Chapter 363.073 of the Minnesota Human Rights Act and is committed to take affirmative action to employ and advance in employment physically and mentally disabled individuals.

It is hereby agreed between the parties that Minnesota Statutes, Chapter 363.073 and Minnesota Rules, parts 5000.3400 to 5000.3600 are incorporated into any contract between these parties based upon this specification or any modification of it. A copy of Minnesota Statutes, Chapter 363.073 and Minnesota Rules, parts 5000.3400 to 5000.3600 is available from Public Documents Division, 117 University Avenue, St. Paul, Minnesota 55155, (612) 297-3000.

XII. Workers' Compensation

The successful responder will be required to submit acceptable evidence of compliance with workers' compensation insurance coverage requirements prior to execution of the contract.

XIII. Administrative Provisions

The State reserves the right to impose additional provisions and/or conditions to the contract which may ultimately result from this Request For Proposals. Such provisions and/or conditions may include, but not necessarily be limited to: ownership of documents, submission of workpapers, disclosure of assumptions and methodologies, contract termination rights, accessibility of records to audit agencies, etc.

SUPREME COURT

Legal Services Advisory Committee

Request for Proposals for Legal Services

The Legal Services Advisory Committee is requesting proposals for legal services and alternative dispute resolution programs for low income people.

Inquiries should be directed to:

J. L. Rehak
230 State Capitol
St. Paul, MN 55155
(612) 296-6822

Application Deadline: April 15, 1986.

Board of Teaching

Request for Proposals for Teacher Examination Development and Administration Services

The Minnesota Board of Teaching is seeking qualified individuals or organizations with experience in developing, validating, field testing, scoring, reporting, and ongoing administration of teacher licensing examinations to provide this agency with examinations designed to assess skills in reading, writing, and mathematics and the academic knowledge in each field of licensure for prospective teachers within our state.

The specific services to be provided under contract are outlined in detail in the Request for Proposal (RFP) statement of Objectives and Activities. Bidders shall submit a separate proposal for the development, validation, field testing, and administration of examinations for the skill areas and a separate proposal for the development, validation, field testing and administration of examinations of academic content in the licensure areas.

SUPREME COURT CALENDAR

The Minnesota Legislature has appropriated \$150,000 through June 30, 1987 for this project, which will fund the services to implement skill area examinations. It is anticipated that the estimated costs for the complete project would not exceed \$1,500,000. This is the maximum amount to be paid and the Board of Teaching does not commit itself to spend this entire amount.

The formal RFP may be requested and inquiries shall be directed to:

Kenneth L. Peatross
Executive Secretary
Minnesota Board of Teaching
608 Capitol Square Building
550 Cedar Street
St. Paul, Minnesota 55101
(612) 296-2415

The deadline for receipt of a mandatory letter of intent to bid is 4:00 p.m. on March 10, 1986. The deadline for submission of completed proposals is 4:00 p.m. on April 7, 1986. A copy of the legislation which authorizes teacher examinations may be obtained by contacting the Office of the Executive Secretary of the Minnesota Board of Teaching.

February 10, 1986

Kenneth L. Peatross, Executive Secretary

SUPREME COURT CALENDAR

Listed below are the cases scheduled to be heard by the Minnesota Supreme Court in the next few weeks. This listing has been compiled by the Minnesota State Law Library for informational purposes only. Cases may be rescheduled by the Court subsequent to publication in the *State Register*. Questions concerning dates, locations, cases, etc., should be directed to: Clerk of the Appellate Courts, Room 230 State Capitol, St. Paul, MN 55155 612-296-2581.

MARCH, 1986

MONDAY, MARCH 3, 1986

85-1663 THOMPSON, T. EUGENE, (Attorney: Oakes, Richard T.) vs. STATE OF MINNESOTA (Attorney: DeCoster, Steven C., Assistant County Attorney). 9:00 a.m. State Capitol, St. Paul. ORIGIN: Order Hennepin County.

Was the trial court correct in dismissing Appellant's post-conviction petition on grounds the petition and the files and records of the proceeding conclusively showed that the Petitioner was entitled to no relief and that no evidentiary hearing was required? [Issue as stated in Respondent's brief]

85-829 FAIRVIEW CEMETARY ASSOCIATION OF STILLWATER (Attorney: Jardine, Logan & O'Brien and Graham Heikes) vs. ECKBERG, DAVID W. (Attorney: Lindquist & Vennum and Kurtis A. Greenley). 9:00 a.m. State Capitol, St. Paul. ORIGIN: Certification & Request Court of Appeals.

Are Respondent Fairview Cemetary's Minnesota Securities Act claim and common law claims arbitrable, pursuant to *Southland Corp. v. Keating* and its progeny?

Was Appellant Paine Webber's motion to compel arbitration following the *Southland* decision timely brought before the District Court?

Do the arbitration agreements between Appellant and Respondent meet the requirements of the Federal Arbitration Act? [Issues as stated in brief of Appellant, Paine Webber]

TUESDAY, MARCH 4, 1986

85-585 HUVER, TIMOTHY JOHN, A MINOR, BY HIS FATHER JOHN HUVER AND JOHN HUVER (Attorney: Hvass, Weisman & King and Robert J. King, Jr.) vs. OPATZ, CHERYL, ET AL (Attorney: Quinlivan, Sherwood, et al, and Michael J. Ford). 9:00 a.m. State Capitol, St. Paul. ORIGIN: Court of Appeals.

May Le Sauk Township contractually delegate to another township its statutory and common law duty to design and maintain its township road in a safe condition?

SUPREME COURT CALENDAR

Is summary judgment appropriate where there is a genuine issue of material fact concerning the scope of a contract? [Issues as in brief of Respondent, Huver]

85-115 KARELS, ROBERT J. (Attorney: Gislason, Martin & Varpness and James T. Martin) vs. AMERICAN FAMILY MUTUAL INSURANCE, CO. (Attorney: Albers & Associates and Linc S. Deter). 9:00 a.m. State Capitol, St. Paul. ORIGIN: Court of Appeals.

Does an action for breach of contract against an insurance company, which has violated the law in failing to offer optional coverages, start to run before the contract is breached?

When the existence of a cause of action for breach of contract is dependent upon a contingency (i.e. establishing the inadequacy of insurance coverage available to a third party tortfeasor), does the statute of limitations start to run before the removal of the contingency? [Issues as in brief of Petitioner, Karels]

WEDNESDAY, MARCH 5, 1986

85-224 MORRIS, VERA ANN (Attorney: Dorn Law Firm and Robert Edwards) vs. AMERICAN FAMILY MUTUAL INSURANCE CO. (Attorney: Drake, Kathleen). 9:00 a.m. State Capitol, St. Paul. ORIGIN: Court of Appeals.

Does a private cause of action exist for violation of Minnesota's Unfair Claims Practices Act, Minn. Stat. 72A.20?

85-1773 IN THE MATTER OF THE COMPLAINT OF J.G., COMPLAINANT R.P., RESPONDENT (Attorney: Meshbesh, Singer & Spence and Jack S. Nordby) (Opposing Counsel: MARTIN, BRUCE E., SR. ASSISTANT LAWYERS BOARD) 9:00 a.m. State Capitol, St. Paul. ORIGIN: Order Lawyers Professional Responsibility Board.

Was there clear and convincing evidence that Respondent violated ethical rules by charging a client travel expenses resulting from the client's own improper conduct, and by warning the client not to defame him where he had ample evidence the client was doing so?

Is Rule 9(i) of the Minnesota Rules on Lawyers Professional Responsibility either unconstitutional on its face for not requiring either a unanimous or at least a five-sixths vote after six hours of deliberation, or as applied here where an ex parte admonition was affirmed by a four-sixths vote? [Issues as stated in brief of Appellant-Respondent]

THURSDAY, MARCH 6, 1986

85-443 WORLD WIDE TRACERS, INC. (Attorney: Doherty, Rumble & Butler and Terence P. Durkin) vs. METROPOLITAN PROTECTION, INC. (Attorney: Adams, Atkinson & Pihlsrom and James C. Lamphere). 9:00 a.m. State Capitol, St. Paul. ORIGIN: Court of Appeals.

Is the description of collateral as "all of the property listed in Exhibit A, attached hereto and made apart hereof together with any property the debtor acquired after July 15, 1980" a sufficient description of collateral to perfect the Appellant's security interest in accounts receivable obtained by the debtor after July 15, 1980, pursuant to Minn. Stat. 336.9-110 and 336.9-402?

Should the sufficiency of a description, where the description and the financing agreement is identical to the description in the security agreement, be determined in accordance with the requirements of Minn. Stat. 336.9-110 rather than Minn. Stat. 336.9-402?

May a description of after-acquired collateral be more general than the requirements set out for collateral which is owned by the debtor at the time the security agreement is given? [Issues as stated in brief of Appellant, World Wide]

85-212 BLANK, RACHEL, ET AL (Attorney: Peterson, Engberg & Peterson and William F. Garber) vs. INDEPENDENT SHCOOL DISTRICT NO. 16 (Attorney: Knutson, Flynn & Hetland and Patricia A. Maloney). 9:00 a.m. State Capitol, St. Paul. ORIGIN: Court of Appeals.

Did Blank's failure to challenge her "qualifications" listed on the final and binding seniority list through grievance arbitration bar her from raising that issue at the unrequested leave hearing?

Was Blank "qualified" to teach elementary education within the meaning of the negotiated unrequested leave plan?

If Blank's seniority rights were violated by her placement on unrequested leave, is the School District entitled to a remand for an evidentiary hearing on the issue of mitigation of damages? [All issues as stated in brief of Appellant, School District]

MONDAY, MARCH 10, 1986

85-468 and 85-505 MAPLETON COMMUNITY HOME, INC, ET AL, IN THE MATTER OF THE CONTESTED CASE OF (Attorney: Broeker & Grant and Samuel D. Orbovich) (Opposing Counsel: Heydinger, Beverly Jones, Assistant Attorney General). 9:00 a.m. State Capitol, St. Paul. ORIGIN: Court of Appeals.

Can the Department of Human Services ("DHS") limit property-related costs under Minn. Stat. 256B.431, subd. 3, by proportionally applying three former overall rate limitations to those costs, when the proportional ratio adjustment is not promulgated in rule or contained in any statute?

SUPREME COURT CALENDAR

Does an Administrative Law Judge in a contested case hearing regarding primarily matters of statutory construction commit reversible error by giving deference to the agency's staff interpretation of that statute, when the staff's interpretation has not yet been adopted by the Commissioner?

Is the DHS interpretation of Minn. Stat. 256B.431, subd. 3, and its corresponding rule provision, 12 MCAR 2.05011B.1, confiscatory, arbitrary and capricious, since it enables DHS to set reimbursable property-related costs at a level below a facility's property costs? [All issues as stated in brief of Appellants, Park Point Manor]

85-553 NORTH STAR MUTUAL INSURANCE CO. (Attorney: Christianson, Stoneberg, et al, and Marcus J. Christianson) vs. ZIEBARTH, DAVID M. (Attorney: Von Holtum, Hand, et al, and James E. Malters). 9:00 a.m. State Capitol, St. Paul. ORIGIN: Court of Appeals.

Was Michelle E. Ziebarth an insured under the North Star Mutual Insurance Company homeowner's policy? [Issue as in brief of Appellant, North Star]

TUESDAY, MARCH 11, 1986

85-2108 STERLING CUSTOM HOMES CORPORATION (Attorney: Popham, Haik, et al, and James B. Lockhart) vs. COMMISSIONER OF REVENUE (Attorney: Eisenstadt, Amy, Special Assistant Attorney General). 9:00 a.m. State Capitol, St. Paul. ORIGIN: Order Tax Court.

Is a manufacturer of prefabricated home component packages a supplier of building materials, required to collect Minnesota sales tax on its sales of such packages?

Does the imposition of the sales tax on prefabricated home component packages violate the interstate commerce clause of the United States Constitution?

Does the imposition of the sales tax on prefabricated home component packages violate the equal protection clauses of the United States and the State of Minnesota Constitutions? [Issues as in brief of Respondent, Commissioner of Revenue]

85-1863 TIBBETTS, MICHAEL C. (Attorney: Forsman, Jacob E., Department of Labor & Industry). vs. LEECH LAKE RESERVATION BUSINESS COMMITTEE (Attorney: Finn & Mattson and Harold R. Finn). 9:00 a.m. State Capitol, St. Paul. ORIGIN: Order Workers' Compensation Court of Appeals.

Did the Leech Lake band of Chippewa Indians waive its sovereign immunity to a workers' compensation suit when it adopted ordinance 80-1?

Must the Leech Lake band of Chippewa Indians provide its on-reservation Indian employees workers' compensation benefits mandated by Minn. Stat. 176.01, et seq.?

May the Leech Lake band of Chippewa Indians assert the defense of sovereign immunity in a subsequent action by the Commissioner of Labor and Industry for reimbursement from the reservation business committee pursuant to Minn. Stat. 176.183? [Issues as in brief of Appellant]

84-2152 and 85-1935 and 95-1936 KLEIN, PATRICIA AND SUSAN GILCHRIST, ET AL (Attorney: Tanick & Heins and Marshall H. Tanick) vs. PERL, NORMAN, ET AL (Attorney: Meagher, Geer, Markham, et al, and Charles E. Spevacek). 9:00 a.m. State Capitol, St. Paul. ORIGIN: Certification and Request Court of Appeals Members Opinion.

Is it the rule of law in this State that any misconduct of an attorney, whether intentional or not, whether damaging to the client or not, automatically brings about forfeiture of the attorney's entire fee? [Issues as stated in brief of Norman Perl, et al]

WEDNESDAY, MARCH 12, 1986

85-1432 HARHUT, WILLIAM G., JR., IN THE MATTER OF (Attorney: Radtke, Stephen D.) (Opposing Counsel: Owen, John R., Assistant Hennepin County Attorney). 9:00 a.m. State Capitol, St. Paul. ORIGIN: Certification and Request from Court of Appeals.

Is the indeterminate commitment of mentally retarded persons, subject to required reviews and the right to seek judicial review, rationally and fairly based on the undeniable differences between that class and persons who are mentally ill and chemically dependent? [Issue as in brief of Intervenor]

85-2013 HICKMAN, SIMIN Y., ET AL (Attorney: Robins, Zelle, et al, and David McKenna) vs. GROUP HEALTH PLAN, INC., ET AL (Attorney: Geraghty, O'Loughlin & Kenney and Richard J. Thomas). 9:00 a.m. State Capitol, St. Paul. ORIGIN: Certification and Request Court of Appeals.

Do the State of Federal Constitutions mandate that the State create a cause of action in tort?

Do the United States Supreme Court's abortion decisions require Minnesota to establish a civil remedy for wrongful birth and wrongful life?

SUPREME COURT CALENDAR

Does Minnesota's refusal to permit damage awards for wrongful life and wrongful birth constitute "state action" under the Fourteenth Amendment rendering Minn. Stat. 145.424 unconstitutional?

Does Minn. Stat. 145.424 deny the Respondents equal protection of the laws?

Do compelling interests support Minnesota's refusal to permit damage awards for wrongful life and wrongful birth? [Issues as stated in brief of Appellant, Group Health, et al]

FRIDAY, MARCH 14, 1986

85-697 IN RE PROPOSED AMENDMENTS TO RULES OF THE BOARD ON JUDICIAL STANDARDS 11:00 a.m. State Capitol, St. Paul. ORIGIN: Hearing to Consider Amendments

Proposed Amendments are available through the Clerk of Court.

TUESDAY, MARCH 18, 1986

84-2140 IN REGARD PROPOSED AMENDMENTS TO RULES ON LAWYERS PROFESSIONAL RESPONSIBILITY 9:00 a.m. State Capitol, St. Paul. ORIGIN: Hearing on Proposed Rules.

Proposed rules are available through the Clerk of Court.

85-2205 IN REGARD THE PETITION OF THE MINNESOTA STATE BAR ASSOCIATION 9:00 a.m. State Capitol, St. Paul. ORIGIN: Hearing on Petition.

Hearing on the petition to transfer the Client Security Fund to the Administrative Authority of the Minnesota Supreme Court.

SUPREME COURT DECISIONS

Decisions Filed Friday, February 7, 1986

Compiled by Wayne O. Tschimperle, Clerk

C7-84-2210 Ellis Lovgren, et al., Petitioners, Appellants v. Peoples Electric Company, Inc. Court of Appeals.

Following this court's decision in *Pacific Indemnity Co. v. Thompson-Yaeger, Inc.*, 260 N.W.2d 548 (Minn. 1977), causes of action for personal injury claims arising out of defective or unsafe improvements to real property that existed prior to 1980 are governed by the general 6-year statute of limitations for tort causes of action. The 2-year statute of limitations for such claims provided in Minn. Stat. § 541.051 (1984) applies only to causes of action arising after August 1, 1980, the effective date of the statute.

Since appellant brought his claim against respondent within 6 years of the date his claim accrued, he is not barred under the applicable statute of limitations.

Reversed and remanded. Yetka, J.

Took no part, Simonett, J.

C3-84-1684 In the Matter of the Estate of Leonard U. Shapiro, a.k.a. L.U. Shapiro, Decedent. Court of Appeals.

A surviving spouse's elective share under Minn. Stat. § 525.16 (1984) is calculated before federal estate taxes are deducted from the estate.

Affirmed. Scott, J.

C9-85-856 City of Springfield, Relator v. Commissioner of Revenue and County of Brown. Tax Court.

Real property comprising a medical clinic owned and operated by a municipality is not exempt from taxation as public property used exclusively for a public purpose under Minn. Stat. § 272.02, subd. 1(7) (1984), and Minn. Const. art. X, § 1, where such operation results in gain to private physicians.

Real property comprising a medical clinic owned and operated by a municipality and adjacent to its hospital is not exempt from taxation as a "public hospital" under Minn. Stat. § 272.02, subd. 1(3), and Minn. Const. art. X, § 1, where that property is not reasonably necessary for the hospital to accomplish its purpose.

Affirmed. Scott, J.

Dissenting, Yetka, J., Wahl, J., and Kelley, J.

C0-85-1152 In the Matter of the Application for the Discipline of Robert Lowell Smith, an Attorney at Law of the State of Minnesota. Supreme Court.

Attorney, whose conduct would normally merit suspension, established as a valid mitigating factor a psychological disability under *In re Weyhrich*, 339 N.W.2d 274 (Minn. 1983). Attorney therefore placed on supervised probation.

It is so ordered. Per Curiam.

Took no part, Kelley, J.

C0-84-1142 In the Matter of the Application for the Discipline of David J. Carey, an Attorney at Law of the State of Minnesota. Supreme Court.

Respondent is indefinitely suspended from the practice of law and shall not apply for reinstatement prior to January 1, 1988. The director of the Lawyers Professional Responsibility Board may petition for respondent's disbarment after January 1, 1991, if respondent has not petitioned for reinstatement by that date.

Indefinitely suspended. Per Curiam.

C3-85-61 In the Matter of the Application for the Discipline of George C. Gubbins, Jr., an Attorney at Law of the State of Minnesota. Supreme Court.

Publicly reprimanded. Per Curiam.

Dissenting, Kelley, J.

ORDERS

C0-86-108 In the Matter of the Application for the Discipline of Charles S. Zimmerman, an Attorney at Law of the State of Minnesota. Supreme Court.

Publicly reprimanded. Amdahl, C.J.

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